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**Human Rights Committee**

## Fifth periodic report submitted by Portugal under article 40 of the Covenant, due in 2018*, **

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* The present document is being issued without formal editing.

** The annexes to the present report are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Human Rights Committee.

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1. Portugal presented the 4th CCPR periodic report in January 2011 (CCPR/C/PRT/4). On the concluding recommendations (CCPR/C/PRT/CO/4) made by the Committee on Human Rights, issued in November 2012, it was asked further information on the implementation of recommendations 9, 11 and 12, namely on pre-trial detention, prisons' conditions, alleged ill-treatment and punishment of domestic violence crimes. In 2014 and 2015 the Committee received from Portugal three follow-up reports (CCPR/C/PRT/CO/4/Add.1, CCPR/C/PRT/CO/4/Add.2 and CCPR/C/PRT/CO/4/Add.3). The answers provided hereunder refer to the 4th CCPR's recommendations issued by the Committe (CCPR/C/PRT/CO/4) in November 2012.

## Articles 2, 3, 25 and 26

**The Committee is concerned that women are underrepresented in decision-making positions in the public sector, including in the Foreign Service, as well as in the legislative assemblies of the autonomous regions of the Azores and Madeira. The Committee is also concerned about the significant and increasing wage gap between men and women**

2. Equality policies are reflected, among others, in national action plans, which are being reviewed under the ENIND 2018–2030. The Government is implementing an "Equality Agenda in the Labour Market and Companies" with 5 main areas: gender pay gap; occupational segregation; parental rights; work-life balance; decision-making.

3. Since 2011 there were approved 6 main legislative initiatives regarding women in decision-making positions and equal pay:

(a) Law 60/2018, 21 August, which approves measures to promote equal pay for women and men workers for equal work or work of equal value, contains 4 types of mechanisms that enforce the principle of equal pay for equal work and of equal value.

- The annual availability of statistical information about pay differences, by company (balance sheet) and by sector of activity (barometer);
- Companies have an obligation to ensure a transparent remuneration policy based on objective and non-discriminatory criteria;
- Once the differences have been identified, companies must submit to ACT a plan for assessing these differences ant to be implemented in one year time;
- Any worker may request CITE to issue an opinion on the existence of pay discrimination based on sex.

(b) Portugal approved the Law 62/2017, 1 August, which establishes the regime of the balanced representation between women and men in the administrative and supervisory bodies of the entities of the public sector and listed companies.

4. The law aims that from 2018 onwards it will be mandatory to fulfil a minimum share of the less represented gender on the boards of directors and supervisory bodies of the state-owned companies and listed companies. Thus, in the state-owned companies at least 33.3% of the positions on the boards of directors and supervisory bodies have to be filled by women. For listed companies, the minimum is 20% in 2018 and rises to 33.3% in January 2020.

5. If the minimum threshold of women and men in boards is not met, the law provides for penalties. Thus:

- In the case of entities of the public sector, the act of designating the administrative and supervisory bodies will be considered null and a new proposal that meet the threshold has to be presented within 90 days;
- In the case of listed companies, the act of designating the administrative and supervisory bodies will be considered null by CMVM and the situation must be regularised within 90 days. For listed companies, the maintenance of non-compliance with the minimum threshold results in the application of a rebuke to the offender and its publication in a public register on the website of CIG, CITE and

CMVM. And, in case of an infringement of the minimum threshold for more than one year after the date of the rebuke, CMVM shall apply a financial penalty.

6. The law also requires state-owned companies and listed companies to draw up annual Equality Plans and publish them on their websites. These Plans have to be sent to CIG and CITE and the latter may issue recommendations on the Plans and publish them on its website.

7. The law provides that any change in the composition of the administrative and supervisory bodies of the state-owned companies and listed companies should be communicated to CIG within 10 days.

(c) The Council of Ministers Resolution. 61/2018, 21 May approved ENIND 2018–2030, aligned temporally and substantively with Agenda 2030 and supported by 3 Action Plans. The 1st Action Plan for Equality between Women and Men:

- Ensures governance that integrates the fight against discrimination based on sex and the promotion of equality between women and men (EWM) in policies and actions, at all levels of the Public Administration;
- Guarantees the conditions for the full and equal participation of women and men in the labour market and in the professional activity;
- Guarantees the conditions for education and training free of gender stereotypes;
- Promotes EWM in higher education and scientific and technological development;
- Promotes the EWM in the area of health throughout the life cycles of men and women;
- Promotes a culture and social communication free of sexist stereotypes and promoters of the EWM;
- Integrates the promotion of EWM in the fight against poverty and social exclusion.

(d) Resolution of the Council of Ministers 11-A/2015, of 6 March, establishes mechanisms to promote equal pay and promotes a more balanced representation of women and men in decision-making bodies of publicly listed companies;

(e) Resolution of the Council of Ministers 18/2014, of 7 March, provides a set of specific measures to combat gender pay gap in order to achieve effective gender equality:

- Public companies must prepare, every 3 years, a report on the salaries paid to women and men aiming the diagnosis and the prevention of unjustified differences in those remunerations. This report has to be disseminated and made available on the companies' website;
- As a result of this report, these companies have to establish concrete measures, to be included in their plans for equality, giving response to situations of wage inequality between women and men.

8. The Resolution also recommends private companies with more than 25 employees to draw up a quantitative and qualitative analysis of the gender pay gap and, following this diagnosis, to develop a strategy for correcting any unjustified differences in pay.

(f) Resolution of the Council of Ministers 13/2013, 8 March, provides a set of measures to ensure and promote equal opportunities and outcomes between women and men in the labour market, in particular the elimination of the pay gap, including the drawing up of a report on wage differences by economic activity.

9. Currently, the Parliament is analysing 2 Proposals of Law submitted by the Government, one concerning the definition of a balanced represenation regime between men and women of Public Administration managerial staff and governing bodies and the other aiming to review the Parity Law within the political bodies.

10. In order to deal with the underrepresentation of women in economic decision-making positions and wage gap between women and men, CITE will implement the project Equality Platform and Standard, funded by the Programme Work-life Balance and Gender Equality of EEA Grants 2014–2021.

11. CITE promoted and participated, in different projects between 2014–2016, namely:

(a) Project Sexual and Moral Harassment in the Workplace had as main objective to make the diagnosis and the characterisation of moral and sexual harassment in the labour market in Portugal and raise awareness regarding harassment at the workplace;

- Updated knowledge on the subject was produced, being the most relevant, the survey on sexual and moral harassment in the workplace that covered 1801 individuals (558 men and 1243 women) in a representative sample of the working population of mainland Portugal, excluding the primary sector.

(b) Project Men's Roles in a Gender Equality Perspective had as objective to produce a "White Paper" on men, male roles and gender equality in Portugal, which could be the basis for public debate, dissemination and awareness raising. The White Paper provides a set of recommendations and future challenges for policy and research to be discussed and considered by all the entities and social actors interested in promoting gender equality in the Portuguese society;

(c) Project National Survey on Time Use by Men and Women had as main objective to update the diagnosis and characterization of time used by men and women in Portugal, regarding paid and unpaid care work in particular. A solid array of knowledge and data on time used by women and men was produced, thus contributing to evidence-based policy making in the area of gender equality and work-life balance.

12. For many years, CITE has been promoting workshops, awareness raising and training for strategic target audiences. During 2018 and 2019, ACT and CITE will continue to work together on the up-skilling of labour inspectors training (currently, 308) through the introduction of a specific module on gender equality. It is also planned the inclusion of this specific training on the initial training of the new labour inspectors — 122 new labour inspectors that shall reinforce ACT during 2018 and 2019 will already benefit from this training.

13. In June 2017 it was initiated a training cycle called "Equality Workshops" aiming at analysing gender gaps in labour market indicators, combating labour segregation and discrimination and promote gender equality by deconstructing gender stereotypes and preconceived ideas. This training was organised in four sessions covering the following subjects: the situation of women and men in the labour market; gender concepts and principles; strategies and tools for equality; elaboration of participants' action plans.

14. Until now, 5 rounds of training were delivered involving 141 trainees (136 women and 5 men) from central and local public administration, managers and officers from NGOs, trade unions and companies. A new round of the training cycle will reopen in Autumn 2018.

15. Also, for this purpose, CITE has developed four training programmes in 2013:

- RFIG_1 (21 hours) — Basic Programme on Gender Equality in Labour and Employment and Mainstreaming in Organizations, aimed at managers; human resources managers; consultants; jurists; journalists; workers; officers from the public and private sector;
- RFIG_2 (14 hours) — Basic Programme on Gender Equality in Labour and Employment — Law as a Motor of Change, target to lawyers; managers; human resources managers and other and human resources staff; workers;
- RFIG_3 (21 hours) — Basic Programme on Gender Equality in Labour and Employment for Collective Bargaining, aimed at collective negotiators and social partners in general;
- RFIG_4 (14 hours) — Basic Programme on Gender Equality in Labour and Employment for Labour Inspectors.

16. In order to encourage employers in achieving gender equality, CITE has been promoting since 2000, and in partnership with the CIG since 2009, the Equality is Quality Award that distinguishes companies and other employers with policies in the area of gender equality, work-life balance and good practices for preventing and combating domestic violence and gender based violence.

17. In order to make the Equality is Quality Award even more attractive, CITE is working on its renewal, in time for the next edition of the Award that will be launched in 2019.

18. The National Equal Pay Day is celebrated since 2013 to raise public awareness in order to reverse the persistent difference between women/men salaries, disseminating information on inequalities among the main agents within the labour market, enterprises and employers' associations of the major economic sectors as well as the social partners.

19. During 2016–2017, CITE and ACT developed joint actions to raise awareness among employers, as well as to achieve a more fluid articulation between the CITE's legal work and the ACT's inspection activity. The two entities, in a joint initiative, promoted the National Action to Promote Gender Equality at Work.

20. In Portugal, in 2015, 59% of people graduate with higher education and 54.8% of people with a doctorate degree were women. However, men occupied 91% of the seats of members of the Board of Directors of the 17 listed companies. In the absence of an objective reason for this disparity, CITE launched the National Promotion Campaign Women on the Boards of Directors to raise awareness among stakeholders, seeking to change this trend.[1]

21. Since 2013, CITE has sponsored a working partnership with private sector organisations and state-owned enterprises, to implement, monitor and disseminate concrete actions on gender equality, including on reconciliation work-family and personal life, on recruitment, on horizontal and vertical desegregation and on combating wage inequality. This partnership has resulted in the Project IGEN — Forum of Companies for Gender Equality bringing together 60 companies.

22. In 2014 two web tools that enable companies to analyse their personnel and pay structure were developed:

(a) The Self-Assessment Survey on Equal Pay between Men and Women in Companies evaluates some organisational practices related to the valuation of the work and the payment of salaries and other benefits to their workers. As going through the various questions that make up this questionnaire, the employer is induced to reflect on some practices or procedures as a way to identify situations that may pose as a potential cause of unequal treatment between men and women, with effect on wage level;

(b) The Gender Pay Gap Calculator allows companies to conduct a self-assessment exercise on equal pay between men and women.

23. Since the beginning of 2015 these tools are available on CITE's website.[2] Last year 860 users logged in 1004 times to the Gender Pay Gap Calculator and 159 did the self-assessment survey.

24. In 2013 a working group formed by CITE, CIG, the Cabinet of the Secretary of State of Employment and the Cabinet of the Secretary of State of Parliamentary Affairs and Equality, drafted the 1st Report on Wage Differences by Economic Activity.[3] In 2014, this report was presented and discussed in the Standing Committee for Social Dialogue, which led to the drafting of recommendations proposed by the Government with the aim of eliminating the wage differences that have no objective justification.

[1] http://cite.gov.pt/pt/acite/campanhas.html.
[2] http://calculadora.cite.pt/index.php/welcome/home.
[3] http://cite.gov.pt/pt/destaques/complementosDestqs/I_Rel_Dif_Sal.pdf.

25. The principle of non-discrimination on the grounds of sex is fully respected by the Portuguese Foreign Service: admission and promotion are based on the principle of merit. No quotas are foreseen for women.

26. Women were only allowed to join the Portuguese Foreign Service after 1976. Women in decision-making positions are as follows:

| | *2017* | | *2018* | |
|---|---|---|---|---|
| *Women in decision-making positions* | *Women* | *Total* | *Women* | *Total* |
| Ambassadors/Chargées D' Affaires | 13 | 71 | 15 | 74 |
| Consul/Consul General/Vice Consul | 11 | 48 | 13 | 48 |
| Decision-Making Positions Internal Services | 83 | 159 | 80 | 159 |
| **Total** | **107** | **278** | **108** | **281** |

*Source*: MFA.

27. Over the period under review, there were three competitions for admission to the Portuguese Foreign Service.

| *Competitions for Admission to the Portuguese Foreign Service* | | | |
|---|---|---|---|
| *Year* | *Number of Vacancies* | *Admitted Males* | *Admitted Females* |
| 2013 | 20 | 19 | 1 |
| 2015 | 25 | 22 | 3 |
| 2017 | 30 | 21 | 9 |

*Source*: MFA.

28. Five competitions were held for admissions into the judiciary (prospective judges and prosecutors).

| *Competitions for Admissions into the Judiciary* | | | | | |
|---|---|---|---|---|---|
| | *2012 2013* | *2013 2014* | *2014 2015* | *2015 2016* | *2016 2017* |
| **Total** | **80** | **159** | **158** | **203** | **200** |
| Male | 24 | 51 | 50 | 68 | 67 |
| Female | 56 | 108 | 108 | 135 | 133 |
| Judges | (n) | (n) | (n) | 127 | 125 |
| Male | (n) | (n) | (n) | 43 | 42 |
| Female | (n) | (n) | (n) | 84 | 83 |
| Prosecutors | (n) | (n) | (n) | 76 | 75 |
| Male | (n) | (n) | (n) | 25 | 25 |
| Female | (n) | (n) | (n) | 51 | 50 |

(n) data not available/*Source*: Ministry of Justice.

29. Regarding gender representation in the Regional Legislative Assembly of the Azores, it was approved the 8th amendment to the Electoral Law for the Legislative Assembly of the Autonomous Region of the Azores (Decree-Law 267/80, of 8 August) which stipulates that the Assembly lists must promote parity between men and women (at least 33.3% of each of sexes in the lists). In the 2016 legislative elections the Law was fully respected.

**The Committee is concerned that, despite considerable action taken by the State party, immigrants, foreigners and ethnic minorities, including the Roma minority, continue to face discrimination in access to housing, employment, education, equal wages, health care and public services, as well as in participation in public life. The Committee is also concerned about reports of racist and discriminatory conduct by law enforcement personnel**

*Migration*

30. Law 102/2017, of 28 August, introduced the 5th amendment to Law 23/2007, 4 July, establishing the legal procedures and conditions for third country nationals to entry, stay, exit and be removed from national territory. This amendment transposed the following directives:

- Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers;
- Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer;
- Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.

31. ACM is responsible for national plans for the integration of migrants, now on its 3rd edition (2015–2020).[4] Acknowledging the change in migration flows over the past few years and the need to define a national integrated vision on migration through a whole-of-government approach, in 2014, it was defined the National Strategy for Migration 2015–2020 flows globally, including measures to target not only immigrants, but also Portuguese emigrants and refugees.

32. The Strategy follows a holistic approach and involves 13 ministries, being defined around practical measures and organized into thematic sections, as health, employment and education. It was publicly discussed, and civil society — including immigrant associations — was highly mobilized to give inputs.

33. Portugal was a pioneer in Europe, in 2003, when it created the National Support Network for the Integration of Migrants as a response of proximity to immigrant communities scattered throughout the country. In July 2016, the Government redefined, through Ordinance n. 203/2016, this Network composed by 3 CNAIM and 98 CLAIM with the objective of developing a modern and integrated migration policy, more appropriate to the contemporary migration dynamics and current needs, making it more inclusive and comprehensive, including immigrants and refugees. Intercultural mediators, coming from different immigrant communities, play a key role in all CNAIM services.[5]

34. Each CNAIM provides a range of Government and non-Government services under one roof in a variety of languages (Arabic, Cape Verdean, English, Guinean Creole, Mandarin, Portuguese, Romanian and Russian), including, among others: the provision of information and direct assistance regarding legal and visa issues, family reunification, the educational system, access to healthcare, professional and educational skill recognition, social security and welfare issues. All services are provided free of charge. Since March 2004, there have been more than de 4.5 Million cases.[6] The CNAIM network (Lisbon, Oporto and Faro) has a daily average visit of 1100 people.

[4] http://www.acm.gov.pt/documents/10181/222357/PEM_ACM_final.pdf/9ffb3799-7389-4820-83ba-6dcfe22c13fb.

[5] http://www.acm.gov.pt/-/cnai-centro-nacional-de-apoio-ao-imigrante.

[6] https://www.youtube.com/watch?v=OaW_bDKwj4k&t=1s.

35. The 98 CLAIM work in a partnership with municipalities and civil society organizations, covering almost the entire territory of Portugal, providing decentralized information, support and response to migrants' questions and problems .

36. Aligned with the national plans, in 2014, Portugal challenged the municipalities to build bottom up municipal plans with the strong participation of migrant communities and private entities with competence in the area of migration (1st Generation of Plans 2015–2017/2nd Generation 2018–2020 — Total 38 municipalities).

37. In the context of mass arrivals of refugees in Europe, Portugal has shown dedication to this humanitarian crisis by committing to receive a high number of refugees, considering the total population of the country (10,5 million according to 2011 Census). Since December 2015 until the end of September 2018, Portugal has received 1697 refugees (1066 men and 631 women, mainly from Syria, Iraq and Erithreia).

38. The responsibility of ACM regarding refugees was established with the European Agenda for Migration in September 2015, with the creation of a national multi-institutional Working Group.

39. Within this Group, ACM assumed the role of working with public opinion and raising awareness of the refugee situation and the articulation with civil society and municipalities on collecting proposals for the reception of refugees and other important dimensions to support the integration of refugees, including those relocated, resettled and spontaneous in need of international protection.

40. With the publication of the Administrative Rule 203/2016 of 25 July 25, ACM services were reconfigured and adapted, in particular, the National and Local Support Centres for the Integration of Migrants (CNAIM and CLAIM) to ensure relocated, resettled and spontaneous refugees are provided with adequate services to their needs. A Support Unit for the Integration of Refugees was created for the implementation and execution of the policies for the reception and integration of refugees and beneficiaries of international protection."

41. ACM developed a Refugee Welcome Kit[8] with information on Portugal, as well as relevant information for the refugees in order to ensure a better reception.

42. The Welcome Kit is distributed in hands on arrival by ACM. The contents include a map of Portugal, a dictionary tool, a t-shirt with useful icons to indicate immediate needs, a sim card with 15€, useful contacts and frequently asked questions provided in five different languages (Portuguese, English, French, Arab and Tigrinya) and an original welcoming drawing by a child from a Portuguese school. The elements that constitute the Refugee Welcome Kit were decided upon after consultation with refugees and organisations that work with refugees through meetings and Focus Groups.

43. In order to improve the educational success of the migrant students recently integrated in the Portuguese educational system, the Ministry of Education implements educational support policies regarding the acquisition of the Portuguese language, as an object of study and as a language of schooling, through the offer of the school subject Portuguese as a second language (PL2) — Português Língua Não Materna (PLNM), in primary and secondary education (ISCED 1, 2 and 3). The goal is to assure that non-native Portuguese speakers students have the same equal conditions to achieve the school curriculum and educational success, no matter their mother language, culture, social background, origin and age. Migrant students placed in the A1, A2 and B1 language levels, according to the Common European Framework of Reference for Languages, can benefit from PLNM classes for the development of the Portuguese language and follow a specific PL2 curriculum. Migrant students placed in the B2 and C1 language levels follow the national curriculum of Portuguese subject and can benefit from language support classes. Furthermore, these students can also use dictionaries to support them during examinations of other school subjects. All public primary and secondary schools in the Portuguese educational system offer these measures. Students who recently arrived in Portugal have to

[7] http://www.acm.gov.pt/-/rede-clai-centros-locais-de-apoio-a-integracao-de-imigrant-3

[8] http://www.acm.gov.pt/kitrefugiados

undergo an initial process of sociolinguistic assessment and do placement tests. This way, it can be possible to make sure that these students need to benefit from these measures.

44. In the scope of the European Agenda on Migration, the Ministry of Education conceived extraordinary educational measures regarding the reception and inclusion of students in the Portuguese schools that belong to the refugee contingent. In October 2016, the abovementioned measures were extended to all children and young people seeking asylum or international protection. Students, in the first stage of their integration, only attend the educational activities that the school considers appropriate to the particular case, without however allowing a complete untying of the group/class.

45. Schools can also develop other projects or educational modalities according to the resources available and to the specific knowledge of each context, depending on DGE's approval. For the implementation of these measures, emphasis is placed on the quick inclusion of these students in the national curriculum for the school grade they are attending. In addition, these students can also benefit from complementary support, according to their specific situations. For this purpose, the Ministry of Education, the municipalities and other non-governmental institutions provide social assistance, regarding accommodation, food support, financial assistance and educational resources.

46. In order to support schools and teachers in the implementation of the measures mentioned above, it was published on DGE's website[9] a Reception Guide — preschool, primary, lower secondary and upper secondary education.

47. Regarding employment, immigrants holding a valid residence card are entitled to access employment and employment measures, as active labour market policies, training opportunities and unemployment benefits (provided they meet legal requirements).

48. Pursuant to Ordinance 1262/2009, 15 October, IEFP has been providing Portuguese language courses for non-native speakers for several years. The purpose of the "Portuguese For All" Program (PPT) is to improve proficiency and understanding of the Portuguese language and at the same time to allow for a better knowledge of basic citizenship rights, very much needed by third country nationals for a smooth integration into Portuguese society. PPT is addressed to foreign citizens, either employed or unemployed, aged 18 years or over, holding a valid resident permit.

49. PPT courses addressed to individuals who are less than 18 years of age are under the scope of the Ministry of Education.

50. To evaluate the capacity and to prepare a plan of action and a response concerning reinstallation, relocation and integration of third countries' nationals, it was created a Working Group on the European Agenda on Migration by Governmental Order No 10041-A/2015, 3 September. The WG had a multidisciplinary team, representing several public bodies responsible for different areas, as employment, social security and solidarity, health, education and home affairs.

51. As far as refugees and asylum seekers are concerned, IEFP acts as follows:

- Previously prepared face to face interviews — if needed it is scheduled with ACM the telephone translation service;
- Design of a Personalized Employment Plan based on results from the skills, interests and needs assessment. Usually PPT Programme forms the 1st stage of this Employment Plan as it is a major mean of helping to develop Portuguese language knowledge and skills to support integration into Portuguese society;
- Referral to training and/or employment Programmes within the scope of the Personalized Employment Plan.

52. In an effort to provide a swift labour market integration of refugees, IEFP signed, in November 2017, a cooperation Protocol with the Platform for Supporting Refugees and with the Group of Reflection and Support for Corporate Citizenship, through which these 3 entities agreed to jointly act on the promotion of a strategy towards that goal. This Protocol

[9] http://www.dge.mec.pt/agenda-europeia-para-migracoes

sets out a strong commitment aiming at, among other features, providing for the learning of Portuguese language in different contexts, this being recognized as one of the most privileged ways for the integration of the around 4.500 expected refugees that Portugal will welcome within the next 2 years.

53. Regarding Working Conditions, consequently to Article 4 of the Working Code, a foreign worker or stateless person who is authorized to exercise a subordinate professional activity in Portuguese territory enjoys the same rights as workers with Portuguese nationality. Employment contracts with foreign workers or stateless persons are subject to written form and must be communicated to ACT, by means of a form.

| *Work contracts of foreign workers notified to ACT (conclusion and termination)* | *2014* | *2015* | *2016* | *2017* |
|---|---|---|---|---|
| | 17.960* | 6.160* | 2.507* | 54.412** |

* *Source*: registration of communications information in the ACT information system.

** *Source*: ACT website. In 2017, a form for the communication of employment contracts for foreign workers became available, and this information became automatic.

54. In view of the representativeness of immigrant workers in Portugal, it was considered necessary and a priority to adopt a set of policies and concrete measures to promote their better reception and integration, in a sectoral perspective, highlighting the area of work, as well as racism and discrimination, gender equality and citizenship perspectives.

55. The II National Plan for the Integration of Immigrants 2010–2013 (approved by Resolution of the Council of Ministers 74/2010, 12 August) was one of the reference instruments for the work inspection area, setting guiding principles, as the following:

(a) Equal opportunities for all, with particular reference to reducing handicaps in access to employment, rejecting any discrimination based on ethnicity, nationality, language, religion or gender and combating legal or administrative dysfunction;

(b) Special attention to gender equality, recognizing the dual vulnerability of the woman/immigrant status;

(c) Simultaneous and inseparable affirmation of the rights and duties of immigrants.

56. In the Strategic Plan for Migration 2015–2020 ACT has carried out the following actions:

(a) Intensification of the fight against the use of illegal labour through the reinforcement of the inspection activity with the employers;

(b) Streamlining awareness/information actions with employers' and workers' associations;

(c) Instigating action at work, promoting citizenship and gender equality through the integration of immigrants, combating the illegal use of labour (including undeclared work), racial discrimination and trafficking of human beings.

57. ACT has participated in the implementation of various National Plans against THB, insofar as the crime of THB can be perpetrated for the purpose of labour exploitation. Labour inspectors play a special role of flagging and reporting to the PJ all the situations that they may detect in companies and economic agents.

58. In 2014/15, ACT, ACM, IEFP e SEF developed a National Campaign against Unreported Labour with the objectives of detecting and combating total and undeclared work, promoting the transformation of undeclared work into regular employment, promoting a culture of compliance with labour reporting obligations, and enriching the regulatory framework to improve efficiency and effectiveness of the fight against undeclared work (this campaign targeted mainly the vulnerable workers, including migrant workers). Within this campaign, several activities were developed:

(a) Awareness and information — 129 actions were carried out targeting different audiences/public opinion: an advertising campaign (TV, written and spoken press, posters, multi-bank displays) and dissemination to specific target audiences through distribution leaflets, posters, ACT's newsletters, ACT's website FAQs, the campaign website;

(b) Education — campaign was launched in primary and secondary schools: with appealing language and image and clarification sessions;

(c) Normative framework — proposals were made for the improvement of labour legislation, with the aim of optimizing the effectiveness and efficiency of the fight against undeclared work;

(d) Integration and inspection — there were 8,324 inspective visits to workplaces.

**Foreign workers benefiting from the preventive actions:**

| *Employment link type* | *Year* | *Total* |
|---|---|---|
| Employment contracts of foreign workers | 2014 | 3 604 |
| | 2015 | 2 915 |
| | 2016 | 3 195 |
| | 2017 | 2 097 |

*Roma communities*

59. Roma communities have been Portuguese for five centuries and benefit without discrimination from all measures in place for the general population, including social protection.

60. ACM is responsible for implementing ENICC 2013–2020.[10] The Strategy compromises 105 measures in the areas of education, health, housing, employment and a cross-cutting pillar covering discrimination, mediation, education for citizenship, social security, promotion of Roma history and culture, and gender equality. It was built following an intensely participated process with the involvement of all government departments, civil society organizations, academia, experts and representatives of Roma communities. ENICC implementation is financed by the budgets of the partners responsible for each measure. The global data on the ENICC's execution reflects a completion rate of 94,1% between 2013–2016. A revision of ENICC is under discussion and a revised version is expected in 2018.

61. The creation of a Support Fund to this Strategy was determinant to the achievement of the above mentioned results as it gives access to financial support to experimental and innovative projects, with the mandatory participation of Roma communities.

62. The Portuguese approach to integration policies relies on the active participation of the communities. CICDR, established by the Law No. 134/99, 28 August, is chaired by the High Commissioner for Migration and includes representatives from Roma communities, immigrant and anti-racist organizations, NGOs active in human rights protection, the Parliament, the Government, Trade Unions and Employers. The Commission members meet every 3 months.

63. CONCIG was the 1st priority of ENICC to monitor the implementation of the Strategy and to assess the socioeconomic situation of Roma communities. It works within ACM, is chaired by the High Commissioner for Migration and includes representatives from home affairs, economy and employment, housing, health, education sector, work, solidarity and social security, the regional government of the Azores and of Madeira, the national association of Portuguese municipalities, the national association of Portuguese civil parishes, institutions working with Roma communities, Roma communities associations, citizens of recognized merit and representatives of academic or research institutions with relevant work on Roma communities.

[10] www.acm.gov.pt/documents/10181/52642/ENICC_en.pdf/bc4d6288-1626-4fcd-baa0-9feb8da7860d.

64. The More Leaders Programme — Roma Youth was launched in 2016 and encourages the active participation of young Roma in civic and associative planning, using participatory methodologies in the context of meetings, training actions, informative/awareness sessions and project development. The Programme had 24 Roma young participants (17 men and 7 women between the ages of 18 and 35 years old).

65. The Choices Programme[11] promotes the social inclusion of children and young people (between 6 and 30 years of age) from vulnerable socio-economic contexts particularly descendants of immigrants and ethnic minorities. The Programme supports local projects, designed and implemented by a consortium of local partners, focusing on 5 strategic areas: Education and professional training; Employability and employment; Citizenship and participation); Digital inclusion; Entrepreneurship and empowerment. Presently in its 6th generation (2016–2018), the Programme is supporting 110 approved projects, involving around 85.000 participants, across the Portuguese territory, as well as two pilot experiences in the European context in the previous edition (2013–2015), there were 85.160 thousand participants and 2.871 different partners involved. Over 2.400 thousand children and young people were reintegrated into school, and 7.000 into employment and vocational training.

66. In October of 2016 it was launched OPRE to encourage and promote access of young Roma to higher education. This Programme aims to reduce existing barriers between these communities and the formal education system, as well as to prevent early school drop-out. OPRE presents a positive measure component by including in the requirements a 40% mandatory representation of each sex for the beneficiaries, therefore promoting gender parity. This edition OPRE attributed 25 university scholarships, as well as offered a capacity building programme and specialized technical support, awareness raising and family and community mediation, as well as individual support and tutoring for the students.

67. In 2017, ACM launched the 1st edition of PAAC to encourage the participation of Roma associations. PACC had a 40.000€ budget and funded six Roma Associations in basic issues, such as electricity or internet bills, or with small projects that fit within the framework of ENICC concerning for instance the promotion of Roma history and culture. In 2018, PAAC's 2nd edition approved 8 projects from all over the country.

68. Multiple initiatives have taken place in order to combat racial stereotypes and prejudices against immigrants, foreigners and national citizens, Roma included. These initiatives were implemented in the form of campaigns, projects, trainings and awareness-raising sessions as part of the celebrations of the International Day for the Elimination of Racial Discrimination:

- In 2015 it was launched the internet campaign *Discover your colour!* using a special website[12] and also Facebook. This campaign was very successful, having received 45.000 viewings on the first day;
- In 2016 a national campaign targeted children between 3 and 5 years old that attended the pre-school system, giving a toolbox with 6 colour pencils with different skin tones and a book with the story *The colours of the grey city*, inviting them to colour the book and to listen and reflect about the main message of the story: the city receives new citizens that bring with them new colours, new ideas and perspectives;[13]
- In 2017, actions at public schools, in 4 cities across the country, included a theatre play, discussions and reflections about the fight against discrimination and a collaborative work between some artists and children doing some murals;[14]

[11] www.programaescolhas.pt.

[12] www.descobreasuacor.pt.

[13] www.acm.gov.pt/documents/10181/167771/As+Cores+Da+Cidade+Cinzenta_BR.pdf/c740288d-4832-49ff-8cfc-75d14d9b5c9f.

[14] www.acm.gov.pt/-/dia-internacional-para-a-eliminacao-da-discriminacao-racial-acm-promove-campanha-de-sensibilizacao-em-escolas-do-1-ciclo.

- In 2018, it was promoted a national contest challenging children and youngsters to produce writing papers on racial discrimination. Up to now, 500 proposals were submitted[15].

69. Other campaigns aimed more specifically to Roma communities included:

- *#DiaNacionalDaPessoaCigana2018* was a campaign where a number of short videos were produced on the integration of Roma communities;
- Roma Voices at the University is a two part video produced with the goal to give voice to young Roma higher education students on their everyday lives and expectations for the future;
- ToBe: a step towards equality is a video produced by a Choices Programme project to signal the International Roma Day;
- Borders "*Fronteiras*" is a video produced in 2016 on the lives of Roma from the small village of Tortosendo.

70. Roma communities have full access to health services, as all other Portuguese citizens. The large majority of Roma children is included in the National Immunization Programme.

71. According to ENICC, the Ministry of Health has achieved all the general targets related to:

- Training actions on health education and health services available to members of the Roma communities;
- Improve the health of Roma communities by focusing on prevention, including yearly raising awareness sessions on early motherhood, children's health and healthy eating habits;
- Raise awareness of healthcare professionals to cultural diversity and training on these issues.

72. Access to social and state supported housing depends on the socio-economic conditions of the households, and the composition of the households helps to prioritize the allocations. Thus, without prejudice to particular situations, access to state-owned housing is based exclusively on the criteria of insufficient household income. Portugal does not provide any specific program according to gender, ethnicity or nationality. The principle is non-discrimination, guaranteeing the universal right of access to housing programs, on an equal basis for all social groups, communities and ethnic groups.

73. In 2013, in order to study the housing conditions of Roma in Portugal, it was created a survey that every municipality should answer regarding the communities living in their geographical space. This study, published in 2015, showed that there were over 7.456 home occupied by Roma households, of which over 1900 were informal settlements or inadequate housing. It also led to some very much awaited rehousing efforts by the Municipalities in partnership with IHRU, namely in Campo Maior and Peso da Régua.

74. Regarding these and other household needs, from Roma and non Roma population, in 2018 the Portuguese Government has launched a new generation of housing policies, namely the Primeiro Direito Program ("First Right Program") the public program for the promotion of housing solutions for people living in undignified housing conditions that do not have financial capacity to support the cost of access to adequate housing.

75. In September 2017, in order to allow the monitoring of the impact of ENICC's actions, DGE prepared and launched an electronic survey to school clusters. The data collection was previously authorised by the National Commission for Data Protection. The results of this survey were published as the School Profile of Roma Community 2016/17. Within the scope of ENICC, the Conference and Workshop "Education and Roma Communities" was also held in Santo António School Cluster, Barreiro, on November 30, 2017. The event was co-organized by the DGE, ACM, the Portuguese Institute of Sports and Youth and the National Agency for Qualification and Professional Education. Several

[15] www.cicdr.pt/-/77-palavras-contra-a-discriminacao-racial?inheritRedirect=true.

other stakeholders took part in this workshop, as the Association for the Advancement of Portuguese Roma Women (AMUCIP), municipalities, teachers, young people and adults from Roma community.

76. IEFP has been acting to promote Roma communities' access to mainstream employment opportunities, therefore contributing to their social inclusion and subsequent material wellbeing. The work is based on the combination and articulation of different services, mainly those in charge of the design of both Employment and Training actions, so to endorse responses that better foster Roma's employability. The action is targeted at:

- Encouraging registration of Roma unemployed persons who have been identified as such by other entities working close to these communities, as it is the case of Local Insertion Centers and Local Contracts of Social Development (CLDS+);
- Referring and integrating Roma people into active training and employment programs or into any other interventions that may offer prospects of employability;
- Raising employers and other institutions' awareness for the existence of ALMP as supporting instruments for vulnerable groups integration, Roma communities included;
- Supporting the identification and referring of Roma unemployed people to other entities and to other possible interventions, if needed, in conjunction with CLDS+ technical coordination service.

77. IEFP is involved in the participation of ENICC 2013–2020 addressing the following priorities:

- To promote knowledge on Roma communities;
- To increase staff skills and organize training actions focused on the specific needs of Roma communities;
- To promote access to employment and encourage self-employment;
- To improve professional skills to increase employment;
- To develop an integrated approach, in partnership with Roma communities;
- To revitalize the traditional activities of Roma communities to promote social and professional integration;
- To organize awareness raising actions and good practice sessions.

78. Towards facilitating the local implementation of the strategy, IEFP has designated, for each Job Center, a focal point articulating with other entities dealing with Roma communities.

79. Locally organized initiatives aiming at reflecting and debating about possible optimizing methodologies towards the integration of vulnerable groups have been developed. The initiative "Follow me — Employment and Training at the Job Centre" — Coimbra's Training and Employment Center organized a workshop named "Strategies for the Integration of Disadvantaged Groups" held on 13 June 2018. Focus was given to Social Basic Income Recipients, Disabled people and Roma communities. Participants represented several organizations, such as IEFP, Social Security, Private Institutions of Social Solidarity, Municipalities and Professional Integration Supporting Cabinets. This workshop has provided the possibility of a close dialogue among a multidisciplinary team with a view to promoting and facilitating social inclusion.

*Promotion of Intercultural Dialogue*

80. In July 2016, PSP and ACM signed a Protocol to implement the Together for all Programme which aims "to contribute to the prevention of conflict in multicultural communities who may have some vulnerabilities, and also for the safety of all citizens regardless of their nationality or cultural belonging." Under the Protocol, PSP has to provide training to ACM professionals on the legal framework that manages the police action, and ACM has to provide training to PSP on the 1st two levels of intervention on the immigration phenomenon in Portugal, the national and cultural groups living in the country.

the issue of diversity and intercultural dialogue (stereotypes, discrimination and ways to deal with difference). The training activities foresee the participation of 1000 officers. Until August 2018, 55 sessions in the area of integration and cultural diversity have taken place, with the participation of 1027 police officials and agents from all over the country.

81. In addition, PSP carries out the "Safe School" Program which is aimed at raising the awareness of children and young people attending all schools in Portugal to the values of respect and tolerance towards all and one another. PSP conducts, on average, 2.400 awareness-raising meetings on the topics of intercultural dialogue, citizenship, bullying, juvenile delinquency, domestic violence and dating violence. PSP also develops the Project "I do as Falco says" to promote the values of citizenship and respect for the rights of others amongst children aged between 5 and 10 years old. Besides more than 30 PSP Police Stations are directly involved in the execution of the 2nd generation of Local Security Contracts and mobilized to work in 35 territories, which, in large part, receive Roma population.

82. In November 2017, GNR and ACM signed a Protocol to implement and develop the Migrant Support Program, share information and good practices, provide relevant and adequate initiatives to the target groups' challenges and promote awareness raising and training opportunities to local partners and the general public on deconstructing stereotypes and prejudices. Until August 2018, 98 soldiers received a special training.

83. The Ministry of Justice and the DGRSP have adopted a "zero tolerance" policy regarding racist and discriminatory conduct by prison guards. In this connection, training courses provided to prison guards always cover subjects regarding protection of human rights, multiculturalism, interpersonal and intercommunication techniques and control and restraint techniques (regarding the use of coercive means). For example, in the 2017 training course, attended by 400 elements, two conferences were held — one on the topic "Multiculturalism and confinement", with the participation of the DGRSP General Director, the President of the Religious Freedom Commission, the Imam of Lisbon's Central Mosque, the President of the Association of Cape-Verde (to which the biggest community of foreign people in prison belongs) and ACM; the other on the topic "Human Rights — Instruments to guarantee implementation and respect", with the participation of the DGRSP General Director, representatives of Amnesty International, representatives of the Human Rights Commission of the Portuguese Bar Association and the CPT member elected on behalf of Portugal.

84. In July 2018, ACM and DGRSP signed a Protocol foreseeing the empowerment of human resources in the areas of re-education and social rehabilitation, providing specific knowledge and tools to communicate with migrants and persons from diverse ethnic groups. It estimates the promotion of 14 training sessions, spread all over the country, targeting 300 professionals that will receive training on deconstructing stereotypes, racial discrimination and intercultural education.[16]

85. Since 2015, ACM organizes the Cultural Diversity Communication Award aiming to reward essays, published and/or disseminated in the traditional and digital media, with a relevant contribution to the promotion of cultural diversity, to combat discrimination based on nationality, ethnicity, religion or documentary situation and, in particular, to the integration of Migrant and Roma Communities in Portugal. Targeted at media professionals/journalists, content producers, scriptwriters and/or screenwriters, and youngsters aged 15–24, this prize had, in 2017, 32 essays admitted in competition.

86. In the context of citizenship education, DGE has been promoting the Council of Europe No Hate Speech Movement Campaign since 2013, being member of the Campaign National Committee, implementing among other initiatives:

- A Seminar on the Campaign theme (organized in 2014 in partnership with Pro Dignitate Foundation);

[16] https://www.acm.gov.pt/-/acm-e-dgrsp-assinam-protocolo-de-colaboracao-capacitar-profissionais-da-reeducacao-e-reinsercao-social-para-a-interculturalidade

- Initiatives within the Safe Internet Project, such as: Annual Contest "SeguraNet Challenges; Youth Panels; awareness raising and training sessions involving schools, municipalities and other entities; a "No Hate Speech" comic strip was produced and used as a digital educational resource.

87. In 2014 and 2015, implementing the 5th NPPCDGBV, 5 Awareness Raising Sessions for students were promoted on "Fighting against Homophobia and Transphobia" by DGE with the collaboration of CIG and the General-Directorate for Schools. These sessions for secondary education students gathered contributions from several thematic areas (Human Rights Education, Gender Equality Education and Health Education). The subject of these Sessions was linked to the "No Hate Speech Movement Campaign".

88. In 2015, in the framework of the III National Plan to Prevent and Combat THB, 2014–2017, a leaflet on THB was produced by DGE and released to schools and disclosed on the DGE Website. 10 training sessions (of 50 hours each) involving around 200 teachers were organised on the topic "Education, Gender and Citizenship", including the issue of THB.

89. The Intercultural School Label/Award is an initiative that aims to distinguish schools that stand out in promoting projects that recognise and value diversity as an opportunity and learning source for all. It started in 2012 with a partnership between DGE, ACM and the Aga Khan Foundation Portugal. The Award promotes the development of school projects that fight against discrimination, intercultural dialogue and foster the inclusion of students from minority communities, contributing therefore to prevent early school dropout and educational success. The Intercultural School Label consists of a certificate and a digital label according to the given certification level (Initiation; Intermediate; Advanced), to be used in communication documentation, valid for 2 school years.

| *School Year* | *Number of awarded school clusters schools* |
|---|---|
| 2012/2013 | 10 |
| 2013/2014 | 10 |
| 2014/2015 | 24 |
| 2015/2016 | 32 |
| 2016/2017 | 28 |

90. The REEI Programme — Network of Schools for Intercultural Education is a joint initiative of DGE, ACM and the Aga Khan Foundation Portugal. The Programme develops a network of schools that promote respect for differences, recognise the richness of diversity and therefore embraces the central tenets of Intercultural Education. A key focus of REEI is to ensure that the curriculum, the organisational culture and the relationship with the community value diversity. Several network meetings have been organised by the three aforementioned partners allowing schools to deepen their reflection on their practice, to share, interact and cooperate with others. The pilot phase of this Programme is taking place during the 2016/2017, 2017/2018 and 2018/2019 school years, encompassing 23 school clusters/schools that did already participate in the Intercultural School Label.

91. While implementing the National Plans for Equality — Gender, Citizenship and Non-Discrimination (2011–2013), (2014–2017), DGE carried out the following measures:

- Production of teaching materials that develop gender equality and citizenship, namely: 4 Education, Gender and Citizenship Guidelines for preschool, 1st, 2nd and 3rd cycles of basic education;
- Promotion, dissemination and implementation of pedagogical materials through training in context, targeting teachers that focused on autonomous and practical work:
    - There were 5 groups involving 7 School clusters in 2011 and 10 groups involving 11 School clusters in 2013;

- There was 1 on-going training workshop on "Education, Gender and Citizenship", with 10 classes that took place in 2015;
- There was 1 on-going training workshop on "Education, Gender and Citizenship" provided to 10 Schools Association Training Centers in 2017. These training workshops also included issues related to THB and to the prevention of Gender Violence in a relationship and raised awareness on the practice of Female Genital Mutilation;
- There were 3 Workshops for students of the 9th grade, under the following themes: "Education, Gender and Citizenship" (in 2015); "Segregation" (in 2016); "And anyway, are we all equal?" (In 2017). There were 2 Webinars about "Symbolic patterns and discrimination" (2016) and "Associativism and Women's Rights" (2017). There are partnerships with private institutions for the development of projects within the scope of this topic area (Associação Corações com Coroa and Capazes Associação Feminista).

92. DGE takes part in ENIND monitoring Commission, which highlights the strategic objective — Ensuring the conditions for an education and training, free of gender stereotypes — fostering a school education, free of gender stereotypes for girls and boys and furthermore promoting collective and organizational measures that guarantee the experience of equality relations among girls and boys in schools and other educational institutions, and encouraging non-formal and informal educational practices that promote equality between girls and boys.

93. At the moment, a pilot study, involving some Ministries, is being carried out, with the purpose of designing a methodological guide for the Portuguese State, in order to consider the impact of gender in the State budget.

94. Acting on the prevention of discrimination, in particular of students with migrant and/or Roma origin, Decree-Law 54/2008, of 6 July establishes the principles and norms that guarantee inclusion, as a process that aims to respond to the diversity of the needs and potential of each and every one of the pupils, by increasing participation in the processes of learning and educational community life. This decree-law identifies the measures to support learning and inclusion, the specific curricular areas, as well as specific resources to be mobilized to meet the educational needs of each and every child and young person along the school path, in all different education and training offerings.

95. Other initiatives took place as:

- Not Just Numbers — An Educational Toolkit about Migration and Asylum in Europe.

96. "Not Just Numbers" is a toolkit about migration and asylum in the European Union produced by IOM and UNHCR. The toolkit has been designed to help teachers and other educators engage young people in informed discussion on this important subject. It is suitable for teaching young people between the ages of 12 and 18 and is available in 24 EU Member States in 20 languages. The revised and adapted Portuguese version was made possible through the joint work of the ACM and DGE.

- What if it was me? Pack your bag and go.

97. The Refugee Support Platform (PAR), in collaboration with DGE, ACM and the National Youth Council carried out "What if it was me? Pack your bag and go", an initiative to raise awareness among children and young people about the difficulties refugees face in escaping from the war, seeking humanitarian protection. The action took place on 6 April 2016, across the country, in all schools, through a session during which a video was shown, showing how little refugees carry with them. On this day, each student was challenged to take their backpack with the things they would carry if they were in the place of a refugee (through pictures or in physical form), as well as to share the reasons for their choices. PAR, with the support of ACM, sent to the School clusters a poster and leaflets, also available in digital format,[17] in order to promote the initiative. In order to support the schools and teachers who joined the activity, a guide was also provided by DGE

[17] http://www.esefosseeu.pt/.

with suggestions and indication of support materials. The aim of this activity was to raise children's and young people's awareness of the reality of refugees, thus promoting the commitment to welcome those seeking humanitarian protection and embodying the principles of a democratic and inclusive society.

98. Measures undertaken within the educational system to promote educational success and combat early school leaving are targeted at all pupils who attend the Portuguese education system, regardless of their origin. However, some of these measures, being intended at supporting vulnerable students, involve students with migrant and/or Roma origin.

*Educational Territories for Priority Intervention Programme (TEIP)*

99. TEIP is aimed at schools located in particularly challenging contexts and intends to create condition for promoting educational success for all students, combating dropout, absenteeism and indiscipline, as well as providing a qualified transition to working life. Schools with high numbers of students at risk of school and social exclusion are identified and selected to be part of the programme based on an analysis of performance indicators of the education system and social indicators of their territories. Since 2011 the number of schools (school clusters and non-grouped schools) included in the programme increased from 105 to 137 schools. The enlargement was due to the launch of the 3rd TEIP. Nowadays there are still 137 schools in TEIP Programme. In 2016/17 that meant that 175 025 students were involved in the programme, which represents 15% of the public schools students, from primary to secondary level.

100. Schools involved in the programme design and implement an Improvement Plan which comprises 4 axis of intervention: Improvement of teaching and learning (focused on classroom strategies); prevention of drop-out, absenteeism and indiscipline; school management and organization; relationship between school, families and community.

101. Schools develop actions in each one of those axis and the Ministry of Education supports it by providing additional resources which may include, accordingly with the goals to achieve, the actions foreseen and the school specific resources needs, the hiring of extra teaching (teachers) and non-teaching staff (psychologists, social workers, sociocultural animators, intercultural mediators), as well as budget for training, the hiring of a critical friend (an educational specialist) and for providing breakfast for children when needed.

102. It should be noted that schools integrated in the TEIP programme, located in contexts where there is a significant number of immigrants and students with a migrant background develop actions to support their full inclusion. The objectives of these actions aim to provide newly arrived students to acquire the basics of Portuguese, as well as basic knowledge about the Portuguese history, geography, culture, among other topics, aiming at more smooth and rapid inclusion of these students in school. One example is the "Welcome Class"[18] developed by a school cluster with high numbers of newly arrived students every school year.

103. Moreover, schools integrated in the TEIP programme develop actions aimed at inclusion of students at risk of dropping out, which may include students with migrant and/or Roma origin. Another example of an action developed by a TEIP school is the "Glassrooms",[19] open-air activities carried out with children and families in the place where they live, for the development of linguistic, personal and social skills. This action aims, in addition to the development of skills, to promote access to and inclusion in pre-school and school education of groups of children, particularly Roma, who experience difficulties in school and social inclusion and who otherwise would not enrol pre-school education.

[18] The Welcome Class is part of the European Toolkit for Schools, available at the School Education Gateway, as is recognised as a good practice to support learners: https://www.schooleducationgateway.eu/en/pub/resources/toolkitsforschools/detail.cfm?n=547.

[19] More info is available at: https://www.schooleducationgateway.eu/en/pub/resources/toolkitsforschools/detail.cfm?n=320.

*Alternative Curriculum Pathways (PCA)*

104. PCA, in place since 2006, is a temporary and exceptional measure only used when all strategies have been tried and pupils or students do not show progress on attainment and are at risk of dropping out. This educational provision is aimed at ensuring a common general education for all students by providing adequate and diverse options, adapted to different educational pathways that can be targeted for pursuing the following studies and for both the qualification, taking into account the education and training of the individual as well as their integration into the labour market.

105. PCA provide the completion of the 2nd cycle (last 2 years of the ISCED 1) and the 3rd cycle (ISCED 2) of the basic education.

106. This measure is targeted at specific groups of students up to 18 years old, inclusive. Until 2016/17 these students must had experienced at least 2 grade retentions per cycle, (with a minimum age of 13 years in the 2nd Cycle of basic education and 15 years in the 3rd cycle of basic education) but since that school year it is possible students with just one grade retention attend PCA. Besides, the minimum age to enroll this provision is no longer restricted since that school year.

*Education and Training Integrated Programme (PIEF)*

107. Created in 1999, but subjected to a number of reviews throughout the time, PIEF is also an exceptional measure for young people aged 15 or over at risk or in a drop-out situation, and at least in one of the following situations: at least three years older than the age cohort of the pupils in the same school level; at risk or in danger; under educational tutelar or criminal measures.

108. The measure aims the reintegration of students in the educational path, the completion of compulsory education and/or integration in the labour market. Each student makes a specific educational pathway through the development of an Individualized Education and Training Plan. This aspect is ensured through the adaptation of the curriculum to the students and a close monitoring, by the class council, which includes a Local Intervention Specialist (usually psychologists or social workers).

109. The identification of the students is undertaken by the Social Security Institute, which coordinates the referral of risk situations; the case is forwarded to the Local Intervention Officer, located in the area of the student's residence, who carries out a diagnostic assessment and forwards an intervention proposal, in order to verify if the PIEF measure is the best educational response to the student. PIEF covers young people from the age of 15. Integration of pupils under the age of 15 depends on case by case analysis, performed by the Local Intervention Officer, in collaboration with the Ministry of Education.

110. Regarding health, sexual and family planning education, Law 60/2009, of 6 August, establishes the implementation system of Sexual Education in schools. Sexual Education has the following main purposes:

(a) The recognition of sexuality and affection among people in their individual development, respecting the pluralism of the current concepts in the Portuguese society;

(b) The development of young people's skills which allow informed and safe choices concerning their sexuality;

(c) The improvement of young people's affective-sexual relationships;

(d) The reduction of the negative consequences from sexual risky behaviours, such as unwanted pregnancies and sexually transmitted infections;

(e) The ability of protection against all forms of sexual exploitation and abuse;

(f) The respect for differences among people and for the different sexual orientations;

(g) The recognition of a responsible and informed sexuality;

(h) The promotion of gender equality;

(i) The recognition of the importance of parents and caregivers, students, teachers and health technicians' participation in the educational process;

(j) The scientific understanding of the functioning of reproductive biological mechanisms;

(k) The eradication of behaviours based on sexual discrimination or on violence based on gender or sexual orientation.

111. Besides, article 6, referring to the School Educational Project, establishes that sexual education is compulsorily included in educational projects in clusters of schools and non-clustered schools. Article 8 also refers that an information and support office for students is also compulsory at schools (highlighted in Article 10) and Article 9 underlines that both health education and sexual education should be followed up by health workers at health facilities and their local community. Finally, Article no. 11 highlights the participation of the school community in these processes.

112. Within the scope of the Law 51/2012, of 5 September, on the student's statute and school ethics, Article 7, on students' Rights, states that the students have the right to the following:

(a) Be treated with respect and correction by any member of the educational community and they cannot, in any case, be discriminated against on grounds of ethnic origin, health, gender, sexual orientation, age, gender identity, economic situation, cultural or social condition or political, ideological, philosophical or religious beliefs;

(b) Benefit from other specific supports that match their school needs or their learning through psychology and guidance services or any other specialized educational support services;

(c) Have safeguarded their safety at school and respected their physical and moral integrity, namely benefiting from the special protection enshrined in criminal law for members of the school community;

(d) Be assisted, quickly and appropriately, in case of accident or sudden illness, occurred or manifested during the school activities.

113. DGE, in partnership with the Directorate General of Health and the General Directorate for Intervention on Addictive Behaviours and Dependencies produced a new supporting document — "Reference Document on Health Education", which was approved and released in May, 2017, by the Secretary of State for Education.

114. The Promotion of Health Education, as one of the dimensions for citizenship education, has a huge importance for the educational system. As a transversal and transdisciplinary topic, it assumes: (i) a spiral interpretation with all its interconnected areas throughout the entire school path; (ii) a perspective of conscious, creative and intentional intervention; (iii) a permanent negotiating attitude by means of ethical processes centred on those who learn; (iv) a holistic view, since skills must be developed cross-cutting all curricular areas.

115. The Reference Document on Health Education is organized by educational levels and educational cycles: preschool, 1st, 2nd and 3rd cycles of basic education, and upper secondary education.

116. Devised as a coherent whole, this Reference Document is based on a common matrix to all levels and cycles of education, offering, for each of them, a proposal for a specific PES (Promotion of Health Education) approach. Five global themes were identified, among them the topic Mental Health and also Prevention of Violence, considered the bedrock theme of this Reference Document. The promotion of mental health at school, based on structured interventions to encourage socio-emotional competences, is the most effective strategy for health promotion, since it helps children and young people recognize and manage their emotions, define and achieve positive goals for their lives, analyse other people's perspectives, establish and keep positive relationships and make responsible decisions.

117. Some of the objectives in this Reference Document imply the following:

- Developing emotional literacy;
- Developing self-knowledge in its emotional dimension;
- Building positive relationships with others and with the environment;
- Intervening effectively in order to prevent individual, situational and environmental risks;
- Identifying violence targeted at others;
- Identifying violence targeted at His/her;
- Adopting a culture of respect and tolerance;
- Developing values of citizenship, solidarity and respect for differences;
- Developing awareness of being a unique human being concerning one's sexuality, identity, gender expression and sexual orientation;
- Developing a positive attitude towards gender equality;
- Recognizing the importance of affections in individual development;
- Recognizing the importance of interpersonal relationships;
- Valuing the relations of cooperation and of mutual help;
- Developing values of respect, tolerance and sharing;
- Adopting healthy attitudes and behaviours;
- Recognizing sexual and reproductive rights as a component of Human Rights.

118. In order to support the use of this Reference Document, training sessions were held for teacher's trainers in several areas of the country, which will be replicated at their respective Training Centres for all Teachers.

119. At the same time, scientific evidence refers that promoting socio-emotional competences, especially when they are integrated in the curriculum, reduce behavioural problems at school and throughout life, reduce emotional distress, improve students' academic success and lead to a healthier lifestyle.

120. Recognizing that mental health and the development of emotional and social skills are crucial to adopt healthy behaviours, to create positive interpersonal relationships, for the individual and collective wellness of children and young people, and for the development of an active, conscious and participative citizenship, DGE, in partnership with Directorate General of Health, has been developing a concerted project, which included the production of a joint document and the training of teachers and health technicians. This work has the purpose of strengthening the competences of teachers and health technicians, so that concomitantly and aiming at a valuable optimization of resources, they can instil in children and young people a range of skills, such as assertiveness, resilience, communication, autonomy and respect, among others.

121. DGE has been supporting and monitoring the work that schools have been developing concerning health education, conducting a project methodology.

122. Besides following up and monitoring the developed work, until 2016/17, DGE allocated approximately € 135,000 annually to schools that had a project involving the whole community, from diagnosis, to evaluation, through the development and implementation of activities.

123. From the school year 2017/18, schools were invited to apply to the "Healthy School Seal", which aims to reward schools that, in their daily lives, foster the promotion of health and well-being in their educational community.

124. This Seal recognizes the merit of clusters of schools and non-clustered schools which, through their practices, have been contributing to the promotion of healthy interpersonal relationships, involving the whole educational community and thus creating a positive image of School.

125. Regarding citizenship education two different curricular frameworks must be considered since 2012.

126. Under Decree Law 139/2012, of 5 July, citizenship education is embedded in all areas/subjects al all school levels (from kindergarten to secondary school) through a cross-curricular approach. It is not and independent subject with mandatory offer but schools have the possibility to decide on its offer as an independent subject, in basic education (primary and lower secondary education levels). The curricular approach to citizenship education can also be assumed through the development of projects and activities, within the scope of school autonomy and the relationship between the school and the community. Thematic areas/dimensions of citizenship education were defined through the reference document "Citizenship Education Guidelines".

127. In 2016, through the initiative of the Secretary of State for Citizenship and Equality and the Secretary of State for Education, a Working Group on Citizenship Education was created (Dispatch 6173/2016, of 10 May) in order to conceive a Strategy on Citizenship Education. Based on the report of this Working group the Portuguese government launched the National Strategy for Citizenship Education in 2017, fostered through cooperation between the public policies on Education and Citizenship/Equality.

128. The National Strategy for Citizenship Education aims to develop competences for a culture of democracy with impact on the individual civic attitude, on the interpersonal relationship and on the social and intercultural relationship, through the 'Citizenship and Development' component. The new Strategy reinforces the cross-cutting nature of Citizenship Education in all educational levels and a compulsory subject named "Citizenship and Development" is established from 5th to 9th grade (2nd and 3rd cycle of basic education).

129. The curricular component of 'Citizenship and Development' encompasses 17 interrelated domains organised in 3 groups:

- 1st group (compulsory for all the school levels and cycles): Human Rights; Gender Equality; Interculturality; Sustainable Development; Environment Education; Health;
- 2nd group (compulsory at least in two cycles of basic education — lower and upper primary education and lower secondary education): Sexuality; Media; Institutions and Democratic Participation; Financial Literacy and Consumer Education; Road Safety; Risk;
- 3rd group (optional): Entrepreneurship; Labour World; Safety, Defence and Peace; Animal Well-being; Volunteering.

130. All the school clusters/schools have to elaborate their Citizenship Education Strategy, to be developed in collaboration with NGOs and other community partners, and have a coordinator for this component. The National Strategy for Citizenship Education began to be implemented in the 2017/2018 school year, in the 230 school clusters/schools that integrate the Project for Autonomy and Curriculum Flexibility (Dispatch 5908/2017, of 5 July), through the Citizenship and Development curricular component (taught in the initial grade of each cycle/level of education). From the next school year (2018/2019) Citizenship and Development will be implemented in all school clusters/schools (public and private education).

## Articles 7, 9 and 10

**The Committee is concerned that under article 143, paragraph 4, of the CCP detainees are prevented from communicating with other persons in cases of terrorism or violent or highly organized crimes, until such time as the detainee is brought before a court**

131. Article 143 (4) of the CCP states that in cases of terrorism, violent criminality or highly organized criminality, the Public Prosecution may determine that the arrested person does not communicate with anyone, with the exception of his/her lawyer, before the first judicial examination.

132. This provision does not necessarily conflict with the defendant's right to communicate with other persons. It results from this provision that, if nothing is determined by the Public Prosecution, the defendant can freely communicate with persons other than his/her lawyer. The arrested defendant is always ensured the right to communicate with a lawyer.

133. Regarding the applicable limits and safeguards, please refer to par. 121 of the fourth periodic report and pars. 23 et seq. of the first addendum to the Concluding Observations. The powers of the examining judge, that are fundamental to ensure the legality and safeguard of the rights, freedoms and guarantees of the defendants and respect for human rights principles in the context of criminal proceedings, shall apply also in these cases.

134. This decision by the Public Prosecution depends on the circumstances of each specific case. This rule aims at ensuring that the detention of the concerned person is not made known for security reasons or in the interest of the ongoing criminal investigation. For example, to ensure that the capture of other members of the terrorist group or of the organized crime group is not compromised and consequently, to prevent the eventual commission of one of these offences.

135. As for the time this measure may apply, note that Article 143 of CCP deals with the first non-judicial examination of the defendant in custody. In case the defendant in custody is not immediately brought before the examining judge, the Public Prosecution may conduct this brief examination in order to determine whether he/she shall be released or not. If the Public Prosecution does not release the defendant after having conducted the brief examination, it must provide for his/her immediate presentation before the examining judge, under the procedure foreseen in articles 141 and 142 (first judicial examination of an arrested defendant). Pursuant these provisions, the defendant must be brought before the examining judge within a maximum term of 48 hours following the arrest. This is a constitutional imperative (article 28 of CPR). Only in cases where the defendant shall be tried immediately (under a summary procedure) is the presentation before the examining judge dismissed.

136. Therefore, the measure determined by the Public Prosecution of restricted communication shall only apply during the referred period. The examining judge shall then decide whether it is necessary to apply coercive measures.

**The Committee is concerned that time spent in custody for identification purposes, which is carried over into detention for a suspected crime, is not counted as part of the 48-hour period within which a detained person must be brought before a judge, and that persons suspected of a crime are not afforded the protections of criminal suspects during this period**

137. The detention of persons for the sole purpose of identification is not a coercive measure *per se*, but a police measure. The application of this measure is exceptional. In fact, only in the event of impossibility of on the spot identification (through the procedures foreseen in article 250 of the CCP), may law enforcement authorities take the person to the nearest police station and oblige him/her to remain there for the time strictly necessary to conduct the identification procedures, which cannot, in any case, exceed six hours. The person concerned is always given the possibility to contact a person of his/her trust.

138. In this regard, it is important to clarify the observations submitted to the first addendum to the Concluding Observations (paras. 28 et seq.). In fact, the procedure for police identification regulated in article 250 of the CCP may apply whenever there are serious suspicions that: (i) that person has committed an offence; (ii) extradition or expulsion procedures are pending against him or her; (iii) that person has entered or is staying irregularly in the national territory; or (iv) that an arrest warrant has been issued in regard to that person.

139. Therefore, in situations (i) and (iv), the person subject to the identification procedure should already be a suspect of having committed a crime; in situations (ii) and (iii), he/she is not.

140. Accordingly, these situations warrant a different treatment and cannot necessarily be considered the same for the effect of determining an overlap between the maxim period of 6 hours for identification purposes and the maximum time-limit of 48 hours before the end of which the person must be presented to a judge. In the case where the person is a suspect of a crime, the referred periods overlap; but not in the second case (unless the person who is subject to an identification procedure for reasons other than being a suspect of a crime, actually becomes the suspect of having committed an offence).

141. Normally, the arrest of a suspect of having committed an offence, outside of *flagrante delito*, occurs under article 257 of the CCP — namely, when there are well-grounded reasons to suspect that the person concerned would not voluntary present him-/herself before a competent authority within a given deadline, when there is a risk of evasion or of disturbing the normal course of the inquiry or the investigative stage or that the defendant will continue a criminal activity or gravely affects public order and peace, or when it is deemed necessary to ensure the protection of the victim. The time-limit of 48h starts to count immediately upon this arrest.

142. The Regulation on the Conditions of Detention in police establishments (Order of the Home Affairs Minister 5863/2015) and the Regulation on the Conditions of Detention in the facilities of the PJ or in Courts or services of the Public Prosecution (Order of the Justice Minister 12786/2009) determine that both situations of deprivation of liberty for a period that does not exceed 48h, as well as the condition of the person subject to an identification procedure, are considered detention.

143. The suspect who is detained is granted all the rights foreseen in the CCP, including the right to contact a person of his/her trust, to contact a lawyer and, in the case of a foreigner, the consular authorities of the State of origin. Specifically, if the detained person is given the status of defendant (*arguido*) by the law enforcement authority — which he/she may also voluntarily request — he/she will enjoy the rights granted by Article 61 and others of the CCP, including the right to legal counsel or, in the case of a foreigner, the right to interpretation in a language that he/she understands.

144. To conclude this point, article 28 (1) of the CPR is unequivocal in what regards the applicable time-limit for administrative detention. Pursuant this provision, all detentions shall be submitted, within a maximum period of 48 hours, to judicial review in order to restore the detainee's freedom or determine the application of an adequate measure of constraint. The judge must be aware of the reasons that led to the detention and inform the detainee of said reasons, question him/her and give him/her the opportunity to defend himself/herself.

145. In view of the above, one must conclude that the time spent in custody for identification purposes of a suspect of the commission of a crime is considered part of the 48-hour period within which he/she must be brought before a judge.

146. Further to the above, article 80 of the CC establishes that time spent in detention is deducted from the duration of the imprisonment sentence.

147. GNR and PSP's officials fully respect the 48-hour period within which a detained person must be brought before a judge, within the scope of any detention for a suspected crime, pursuant to the national criminal procedural law.

**The Committee is concerned that law enforcement officials do not always inform detainees of their right to legal counsel from the time of arrest, and that some detainees in ordinary criminal cases have not been allowed to contact a third party while in police custody**

148. Pursuant to article 27 of the Constitution, every person has the right to freedom and security. Pursuant to article 27(4), every person deprived of liberty must be immediately informed in an understandable manner of the reasons that led to his/her imprisonment or detention and of his/her rights. Deprivation of freedom in breach of the provisions of the Constitution or the law leads to the obligation of the Portuguese State to compensate the aggrieved person in accordance with the law (article 27(5) of the CPR). Furthermore, as explained above, article 28 of the CRP imposes that all detentions be submitted, within a

maximum period of 48 hours, to judicial review in order to restore the detainee's freedom or determine the application of an adequate measure of constraint. The judge must inform the detainee of the reasons that led to the detention. The judge's decision to impose or maintain a measure of deprivation of liberty must be immediately communicated to a family member of the detainee or to a person of his/her trust indicated by him/her.

149. As already mentioned above, the detainee is granted all the rights foreseen in the CCP, namely the right to contact a person of his/her trust, to contact a lawyer and, in the case of a foreigner, the consular authorities of the State of origin. Specifically, if the detained person is given the status of defendant (arguido) by the law enforcement authority — which he/she may voluntarily request — he/she will enjoy the rights granted by article 61 and others of the CCP, namely, the right to legal counsel, and, in the case of a foreigner who does not understand Portuguese, the right to be assisted by a suitable interpreter in any act of the procedure.

150. The right to legal counsel includes the right to appoint a lawyer at any stage of the proceedings and to be assisted by him/her in all procedural acts, and, in case the defendant cannot afford or does not choose a lawyer to represent him/her on his/her own, the right to request or have a lawyer be appointed to him/her. The person concerned may also request legal aid, including the payment of the lawyer's fees. Moreover, all persons deprived of their liberty have the right to contact, communicate in private and receive visits from his/her lawyer.

151. In practice, as has already been explained, anyone who is taken into custody in the facilities of the PJ or in places of detention in the courts or in services of the Public Prosecution is informed of the reasons for detention and of his/her rights, in a language he/she understands and, whenever necessary, given in the presence of an interpreter. The detainee also receives a leaflet containing information on their rights, including the right to choose and appoint a defense counsel and the right to communicate with a family member, a trusted person, embassy or consulate. The leaflet distributed by the PJ is available in several languages, such as Spanish, English and French. This information is also displayed in a visible site in the facility.

152. Further to the statement signed by the detainee indicating that he/she has been informed, the communication of the aforementioned information is registered in the individual record of the detainee, including the time he/she was informed about his/her rights, and the contacts made with a lawyer, family member or a person of trust, embassy or consulate.

153. The use of the telephone of the service responsible for the detention is available to the person taken into custody for the purpose of immediately contacting a lawyer, informing a family member or a person of trust on the situation he/she is in, or, in the case of a foreign national, the consular authorities of his/her State of origin.

154. Moreover, the person taken into custody is granted the right to urgent assistance that is, the right to be assisted in attending and resolving personal affairs, namely those concerning the care of dependent minors or elderly people.

155. The aforementioned rights also apply, with the necessary adaptations, to people who have been convicted and are serving a sentence in a prison facility. In what regards access to legal counselling, we note that recently, the DGRSP and the President of the Portuguese Lawyers' Bar have made an agreement in order to set up legal counselling offices in prison facilities where lawyers will provide free information and legal advice to inmates on various issues concerning their lives, such as, and in particular, on how to submit complaints and claims regarding situations of ill-treatment, as well as how to challenge decisions that are not favourable to them. At this point, talks are taking place with a view to solving logistical problems. It is expected that the operation of these offices will start within a very short term.

156. GNR and PSP's officials inform, explain and formally notify — in different languages, if needed — detained persons of their rights and duties and provide them access to those accordingly with the detained person's will, namely the right to contact a third party and the right to access a lawyer, among others.

**The Committee continues to be concerned about reports of excessive use of force and ill-treatment by law enforcement officials and members of the security forces, and by the authorization for use of Taser weapons under certain circumstances**

157. The issue of excessive use of force and ill-treatment by law enforcement officials and members of the security forces was extensively dealt with in the fourth Portuguese report, in the reply to the list of issues regarding the fourth periodic report, and in the first addendum to the Concluding Observations. Portugal has taken extensive action to ensure prevention and effective investigation and sanctioning of such behaviours.

158. As a result, a gradual improvement in the reporting of this kind of situations has been noticed over the years.

159. In the case of GNR, it can be noticed:

- The inclusion of subjects such as citizen's rights, freedoms and guarantees, guidelines on the use of pepper gas, guidelines on the use of firearms and the use of police techniques, among others, in basic and specialized training activities, may also have played a role in this process;
- The acceptance of the recommendations contained in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the efforts made to comply with them.

160. The use of Taser's in the GNR is limited to military personnel with specific training who provide service in the Intervention Unit.

161. In the PSP, the use of electric shock devices, such as Tasers, is regulated by an internal operational regulation. In order to prevent the wrongful use of this kind of equipment, only specially trained officials with technical certification are authorised to use it.

162. IGAI takes action whenever serious violations of civil and political rights by law enforcement agents take place.

163. The use of force by elements of the PJ is strictly sanctioned and allowed in cases of severe necessity and taking into account proportionality considerations.

164. The number of procedures regarding excessive use of force or ill-treatment in the PJ, as well as their outcomes, is replicated hereunder:

- 2011: 3 proceedings — foreclosed;
- 2012: 2 proceedings — 1 foreclosed; 1 suspended;
- 2013: 2 proceedings — foreclosed;
- 2014: 2 proceedings — 1 foreclosed; 1 conviction (40 day suspension);
- 2016: 4 proceedings — 3 foreclosed; 1 pending;
- 2017: 10 proceedings — 6 foreclosed; 4 pending;
- 2018: 4 proceedings — pending.

165. In addition to the information already previously provided, we note that under article 3 (5) (f) and article 11 of the General Regulation on Prison Facilities, which regulate the entry procedures of inmates in prison facilities and the information to be registered, a report on any visible previous injuries or complaints of previous assaults shall be drawn up. If the inmate agrees, the injuries may also be photographed. In this case, a medical exam is also performed, the conclusions of which shall also be registered. Medical assistance is provided when necessary. The director of the facility shall send a copy of this information, including the medical report if the inmate consents to it, to the General Director of the DGRSP. When the person concerned was held in police custody or there was any kind of intervention of elements of the polices prior to the entry into the prison facility, DGRSP must immediately transmit all the information received to IGAI and to the General Inspectorate for Justice Services (pursuant to Joint Order of the Home Affairs and Justice Ministers 11838/2016).

166. Further to the above, reference should be made to Circular 1/2017, of 26 January, that improves the mechanisms for detection of torture or cruel treatment. This circular establishes the procedures to be observed in possible cases of ill-treatment, in particular, compulsory clinical evaluation to be conducted, namely, upon admission of inmates, when inmates show physical injuries, when control and restraint means are used or when inmates complain about alleged physical abuse. These procedures shall ensure the collection of relevant evidence. SAI and DGRSP have paid particular attention to the compliance with the procedures set out in the aforementioned circular, in particular as regards the importance of including, in the medical examination, specific reference to the compatibility of the injuries with the facts described by the inmate. In this context, and whenever it is found that such procedures are not complied with (which, in practice, only happened at the beginning of its entry into force), SAI shall make recommendations and call attention to the importance of strict compliance with the procedures in the investigation of situations of ill-treatment.

167. In order to better deal with this matter, DGRSP made an agreement with INMLCF under which the latter provides training to the medical staff working in prison facilities, focusing, in particular, on the procedures to follow in case of allegations of ill-treatment and abuse. The first training course took place in March 2018 and involved 14 health and inspection services professionals.

168. In addition to the above, we reiterate that the Portuguese authorities have been paying particular attention to the good relationship between the inmates and the personnel who, in the different areas, serve in the prison administration. In this connection, both the Minister of Justice and DGRSP have adopted and publicly and repeatedly expressed a "*zero tolerance*" policy towards this type of conducts by prison guards.

169. Special emphasis has been put in training of the relevant authorities. In particular, training courses provided to the prison guards now always include disciplines on the protection of human rights, on multiculturalism, on interpersonal and intercommunication techniques as well as on control and restraint techniques (regarding the use of coercive means).

170. As has already been explained in detail, Prison Establishments are regularly inspected and visited by sovereign bodies — mainly by Prosecutors, members of Government and parliament Deputies —, the Ombudsman (either in that capacity or as the National Prevention Mechanism (MNP) under OPCAT) and by representatives of international organizations with responsibilities in matters related to the promotion and protection of inmates' rights. Moreover, inmates maintain their right to correspond, without control, with lawyers, notaries, solicitors, diplomatic and consular entities, sovereign bodies, the Ombudsman, the IGSJ and the Lawyers Bar (art. 68(4) of the Code for the Enforcement of Sentences and Measures Involving Deprivation of Liberty). Inmates may also call, free of charge, several telephone numbers, such as the Aids Hotline, Abraço, SOS Voz Amiga, the Commission for Equality and Women's Rights, the Ombudsman's Office — Child Line and General Line, SOS Emigrant, Elderly Line, Life Line and Citizen with Disability Line.

171. Finally, with regard to the use of control and restraint means, we note that their use by the prison guards is compulsory communicated to the central services and subject to review by SAI. The delegations of SAI in Porto, Coimbra, South and in the Islands are coordinated, respectively, by two Prosecutors and a Law Judge.

172. The use of "Taser weapons" must comply with the provisions set forth in the Regulation on the Use of Control and Restraint Means in prisons, which specify the mandatory proceedings that have to be adopted when the control and restraint means are used. In particular, we underline that any authority using Taser weapons must be certified and subject to specific training.

173. Since 2007 until now only twice (both in 2010) the immobilizing or electric shock devices (Taser) were used in prison facilities. In this regard, mention should also be made to Order of the Justice Minister 5801/2011, of 28 March, which, following the occurrence in the prisons of Paços de Ferreira in 2010, prohibited the use of Taser in situations alike and determined that situations where such weapons were to be used should be video-recorded.

## Articles 7 and 9

**The Committee is concerned that domestic violence continues to be prevalent and that victims of domestic violence often do not report the crime due to traditional societal attitudes**

174. The increase of reports (criminal complaints) of domestic violence is the result of a greater visibility of this phenomenon in the Portuguese society: victims are more aware of their rights mainly due to the increase of public information available and awareness campaigns carried out by public authorities through commercial ads on TV, radio, online, etc. The media coverage of this phenomenon has also contributed to increase public awareness.

175. Domestic violence is a public crime since 2000. This means that it is not required the victim to formally report the crime to the Public Prosecution or to a law enforcement authority, in order for any of these authorities to take action and launch an investigation. They only need to know, to be made aware or to strongly suspect that the offence was committed to start an investigation *ex officio*. This also means that any person can report a crime of domestic violence that he/she may be aware of, with the result that an investigation is mandatorily launched.

176. Domestic violence and sexual crimes are a priority in crime investigation and, since 2014, inquiries are conducted by specialised court sections or magistrates. PGR has issued Directives for prosecutors containing specific provisions aimed at protecting victims of domestic violence, as interim suspension of proceedings (2014) and ultra-summary proceedings (2016). In 2015, it was created a team to systematically study cases of domestic violence murders. In March 2018, PGR established a Working Group on Domestic Violence to outline its strategy against domestic violence and signed protocols with foreign counterparts and national entities to promote training activities and foster institutional cooperation in this regard.

177. Victims of domestic violence have several mechanisms at their disposal to lodge a complaint: directly before a law enforcement authority (PJ, PSP, GNR), directly at the Public Prosecution Service, online (Prosecutor General's Office website) or through a private social solidarity institution, such as APAV or UMAR (Alternative and Answer Women's Union), which guide, inform and support victims throughout the proceedings.

178. The statistical information available concerning the period ranging from 2011 to 2016 confirms that the efforts conducted by Portugal to ensure the repression of this crime have been successful. On one hand, the increase in the number of proceedings is mostly a consequence of the awareness raising efforts and the qualification of this crime as a public crime. On the other hand, the number of convictions is a reflection of a shift in mentalities whereby the commission of this crime and the conviction of its perpetrators are given their due consideration.

179. Victims also have access to several rights and means of protection, such as those set out in the "Statute of Victim" (approved by Law 130/2015, of 4 September). Among these rights, the right to be placed in a shelter is of utmost relevance. Any victim (male or female) can call the National Social Emergency Line (144) and request to be placed in a shelter home. This Emergency Line works 24/7 and victims of domestic violence are considered a "priority group". Some private social solidarity institutes, such as APAV, have established protocols with other entities and can also place victims in shelters without resorting to the Emergency Line 144. Shelters set up for women victims are the vast majority.

180. Article 152 of the CC was recently amended anew (by Law 44/2018, of 9 August) whereby a new aggravating circumstance was added: the dissemination, through the internet or by any other means of public dissemination, of personal data, namely image or sound, regarding the privacy of one of the victims without his/her consent. In this case, the penalty ranges from two to five years.

181. Additionally to all what is inherent to the registration of occurrences, GNR has also been making operational efforts to protect victims of domestic violence as well as to carry out the investigation of these cases. For the latter purpose, GNR counts with specialized

military personnel who operate in dedicated structures named Teams for the Investigation and Support to Specific Victims (NIAVE), which are assigned this particular task.

182. According to the figures contained in the publicly available domestic violence national reports, PSP was responsible for registering approximately 15.500 cases.

183. Moreover, PSP highlights its operational efforts to protect victims of domestic violence during 2017, as reflected by the following figures:

- 29.841 risk evaluations made;
- 39.024 victim protection reinforcement measures implemented;
- 4.645 situations of accompaniment of the victim;
- 1.775 suggestions given to victims on moving to a safe house;
- 31.491 individual safety plans created;
- 12.797 actions of patrolling reinforcement developed around the victim's residence.

184. MTSSS has cooperation agreements with social economy entities, mostly with Private Institutions of Social Solidarity in order to support the development of a set of social responses that includes those addressed to victims of domestic violence, such as the Support and Assistance Centres for Domestic Violence Victims and Shelters. Those are financed by the Social Security budget. Also, MTSSS is co-responsible for the funding of the collaboration protocol with APAV, an NGO recognised by law with statutory objective to inform, protect and support citizens who have been victims of crime, ensuring the maintenance of the 15 Victim Support Offices. These offices have been financed by MTSSS meant for the development of a set of activities of training, support and maintenance of the Network of the Victim Support Offices.

185. Furthermore, there are currently 30 shelters financed by ISS with the capacity to accommodate 574 victims:

| *District* | *Capacity* |
|---|---|
| Aveiro | 106 |
| Beja | 37 |
| Braga | 16 |
| Évora | 40 |
| Faro | 28 |
| Leiria | 16 |
| Lisboa | 92 |
| Porto | 126 |
| Santarém | 10 |
| Setúbal | 69 |
| V.Castelo | 15 |
| V.Real | 19 |
| **Total** | 574 |

*Source*: Social Security Institute, I.P (2018).

186. With regard to the Support and Assistance Centers for Domestic Violence Victims that integrate multidisciplinary teams and provide social, psychological and legal support to the victims, there are 17 centers, for 425 users (in 5 cooperation agreements it was not defined the average capacity of service, because they are longstanding agreements).

187. CIG is the body responsible, together with ISS, for the coordination of the National Support Network for Domestic Violence Victims (created by Law 112/2009 which establishes the legal framework applicable to the prevention, protection and assistance of domestic violence victims).

188. Regulatory Decree 2/2018, of 24 January regulates the responses that constitute the NSNVDV, harmonizing their operating rules and ensuring the same level of quality of services regardless of their legal nature, aiming at improving the efficiency and effectiveness of the responses addressed to these victims. The Decree was also intended to adjust existing legislation to the national and international policy guidelines for the prevention of domestic violence, protection and assistance of its victims, particularly with the Convention of the Council of Europe for the Prevention and Combating Violence against Women and Domestic Violence (Istanbul Convention).

189. NSNVDV presents 3 types of services: support centres, emergency shelters and long term shelters. These services respond to different levels of risk assessment and present different types of interventions to victims and their children (legal, psychological, social and also economic support). CIG Resource Guide and the AppVD mobile application, launched in October 2017, provide information on all support services available in the country, ways to file a complaint or request information, as well as on the entities that provide counselling and psychological support to domestic violence victims.

190. At the moment Portugal has 39 long term shelters for domestic violence victims and their dependent children, with 669 vacancies throughout the national territory (including Madeira and Azores). There is also, since October 2016, a shelter for men victims of domestic violence (with 10 vacancies). In addition, there are 130 emergency vacancies for risk crisis situations with a short-term duration. These vacancies allow sheltering to only take place when it is strictly necessary and justified by risk assessment. The 39 shelters in the national shelter network, as well as 130 emergency vacancies, are distributed in 15 of the 18 districts of mainland Portugal (covering 83% of the territory) and in both autonomous regions (coverage of 100% of the territory). There are also 130 such support centres, 22 of which were located in the islands of the Azores and Madeira.

191. Portugal has a National Social Emergency Line to ensure immediate response to situations that require urgent and emergent action in the scope of social protection. It's a free public service, with uninterrupted operation 24/7, guaranteeing immediate reception and response in situations of social emergency.

192. In 2017 it was funded by the European Commission and promoted by the CIG in partnership with MTSSS, Ministry of Health, Ministry of Education, Ministry of Justice and the Secretariat General of MAI the "Sexual Violence in Intimacy Relations Project" regarding concerns for victimization on the grounds of beliefs and attitudes. It runs from May 2017 to November 2019 with the purpose of raising awareness among strategic stakeholders, namely the public administration professionals and partners.

193. CIG coordinated the V National Plan for preventing and combating domestic and gender violence 2014–2017. Upon its ending, the Government took a new approach of combining measures pertaining to gender equality and gender-based violence under a broader long-term strategy. The National Strategy for Equality and Non Discrimination timeline was framed by the United Nations 2030 Agenda for Sustainable Development and is divided into three four-year-long periods which will each be subject to evaluation. The new strategy is structured in three action plans covering gender equality, violence against women and LGBTI rights.

194. The Action Plan for preventing and combating all forms of violence against women, gender violence and domestic violence of ENIND has measures especially designed to combat and prevent domestic violence, namely:

(a) Prevent — eradicate social tolerance of the various manifestations of violence against women and domestic violence, raise awareness of its impact and promote a culture of non-violence, human rights, equality and non-discrimination;

(b) Support and protect — broaden and consolidate the intervention;

(c) Intervene with the aggressors, promoting a culture of accountability;

(d) Qualify professionals and services for the intervention;

(e) Investigate, monitor and evaluate public policies;

(f) Prevent and combat harmful traditional practices, including female genital mutilation and early and forced child marriages.

**Crimes of Domestic Violence recorded by the police in the years 2011 to 2016**

| *Year* | | | *2016* | *2015* | *2014* | *2013* | *2012* | *2011* |
|---|---|---|---|---|---|---|---|---|
| *Crime* | | | *Number of Crimes* | | | | | |
| Against Persons | Against physical integrity | Domestic Violence (Spouse/similar) | 22 773 | 22 469 | 22 965 | 22 930 | 22 254 | 23 742 |
| | | Domestic Violence against minors | 470 | 475 | 502 | 487 | 529 | 597 |
| | | Others Domestic Violence | 3 762 | 3 651 | 3838 | 3 936 | 4 011 | 4 651 |
| **Total** | | | **27 005** | **26 595** | **27 305** | **27 353** | **26 794** | **28 990** |

*Source*: Ministry of Justice/Data Last Updated: 31/10/2017.

**Criminal proceedings (at the trial stage) ended in courts of 1st instance for the crime of Domestic Violence in the years 2011–2016**

| *Year* | | | *2016* | *2015* | *2014* | *2013* | *2012* | *2011* |
|---|---|---|---|---|---|---|---|---|
| *Crime* | | | *Number of proceedings* | | | | | |
| Against Persons | Against physical integrity | Domestic Violence (Spouse/similar) | 2 832 | 2 590 | 2 258 | 2 663 | 2 497 | 2 562 |
| | | Domestic Violence against minors | 75 | 67 | 61 | 67 | 62 | 80 |
| | | Others Domestic Violence | 739 | 648 | 549 | 609 | 649 | 599 |

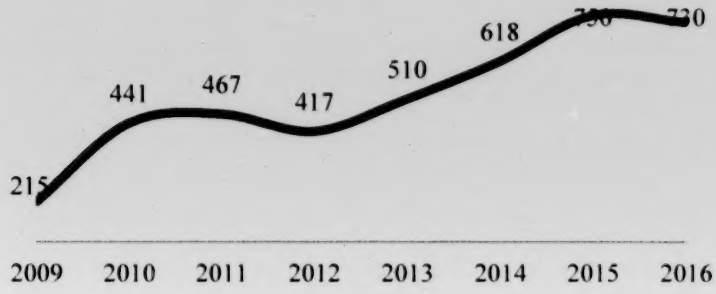
*Source*: Ministry of Justice/Data Last Updated: 31/10/2017.

**Convicted Persons in Criminal Proceedings (at the trial stage) ended in courts of 1st instance for the crime of Domestic Violence in the years 2011–2016**

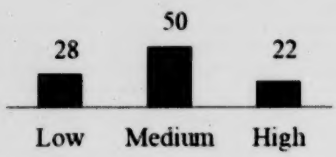
| *Year* | | | *2016* | *2015* | *2014* | *2013* | *2012* | *2011* |
|---|---|---|---|---|---|---|---|---|
| *Crime* | | | *Nº of Convicted* | | | | | |
| Against Persons | Against physical integrity | Domestic Violence (Spouse/similar) | 1 528 | 1 432 | 1 275 | 1 430 | 1 362 | 1 328 |
| | | Domestic Violence against minors | 47 | 39 | 33 | 44 | 37 | 45 |
| | | Others Domestic Violence | 409 | 388 | 343 | 350 | 331 | 324 |

*Source*: Ministry of Justice/Data Last Updated: 31/10/2017.

**Detention of suspects (years 2009 to 2016)**



**Risk Assessment (1L) Level of risk (2016) (%)**




RVD 1L (initial assessment): 27116.
RVD 2L (reassessments): >20800.

195. Another protection measure under CIG coordination is the Tele-assistance Service for Victims' Domestic Violence. This service aims to increase the protection/safety of the victim, ensuring a 24/7, free of charge, adequate response to emergency situations. The victim has a mobile equipment that allows to activate, at any time, a call centre (provided by operators with training in telephone assistance to victims). Following the alarm button activation the Operators team, activates police forces, which will go to the victim's location. The location is achieved through the combination of GPS (Global Positioning System) and Location-Based Service (LBS) technologies that transmit the geographic coordinates of a given device. The Tele assistance service ensures a rapid response in danger/risk situations and permanent emotional support, thus contributing to their empowerment. Since the beginning of the programme (2011), and until 31 December 2017, 3303 persons have benefited from this protection measure. This is a protective measure based on an articulated work between justice, law enforcement and CIG.

## Articles 7 and 10

**The Committee is concerned that some prisons are faced with overcrowding, inadequate facilities and poor health conditions. It is concerned about drug abuse by detainees, as well as the high rate of detainees with HIV/AIDS and hepatitis C. The Committee is also concerned about some reports of physical ill-treatment and other forms of abuse by prison guards at the Monsanto High Security, Coimbra Central and Oporto Central prisons**

196. Portugal continues strongly committed to resolve the problem of overcrowding in prison facilities, as the extensive information provided to the Committee in the fourth periodic report, respective list of issues and the addenda to the Concluding Observations show.

197. Action deployed in this regard consists of — as recommended by CPT — measures designed to reduce the prison population (e.g. of a legislative nature) and actions designed to increase the housing capacity of the prison system. Both are intended to improve the material conditions in which detainees live.

198. Among the legislative measures designed to reduce the prison population, it can be highlighted the adoption of a new law amending the CC, as recommended by CPT — Law 94/2017, of 23 August. This law introduces two significant changes to the regime of execution of sentences: (i) the elimination of weekend- and semi-detention prison sentences; and (ii) the extension of the maximum period of effective prison sentence allowing for the application of house arrest, as an alternative to imprisonment, from one year to two years.

199. These legislative amendments favour the use of electronic monitoring means, decongest the prison system — by preventing the imprisonment of convicted persons who do not require such intense levels of control — and increase the control of certain community penalties.

200. By the end of 2017, as a consequence of the aforementioned legislative amendments and the adjustments introduced in the Electronic Monitoring System, a very significant increase in the application of the regime of house arrest with electronic monitoring had

already been registered. In fact, whereas during almost the whole year of 2017, only 131 sentences were executed in the regime of house arrest ("obrigação de permanência na habitação" — PPH) were applied and only an average of 70 were simultaneously carried out; during the period between 21 November 2017 and 30 April 2018, 306 new PPH were applied. Considering the average PPH verified between January and October 2017 (8 PPH), the 306 penalties applied represent an increase of 3 725 %.

201. In conclusion, this preliminary analysis allows to anticipate the great impact that the application of this new regime of PPH will have on the National System of Electronic Monitoring and, in parallel, to support, in a very significant way, the process of decongestion of the Prison System.

202. At the same time, it is also important to highlight that these changes also consubstantiate very important benefits from a social and humanizing point of view. In fact, this new regime allows the convicted person to keep his/her family and social ties if authorized by the court and for the purpose of promoting his/her withdrawal from criminal behaviours, to perform activities which are useful and appropriate to the process of resocialization.

203. Furthermore, mention should also be made to the plan drawn up by the DGRSP to raise awareness of Judges and Public Prosecutors on this issue and promote a better understanding on how the monitoring equipment works and the system operates, with a view to reaching greater application of alternative measures to imprisonment.

204. Concluding, it is important to underline that, as a result of the articulation of these various measures and approaches, we have registered a steady and very significant decrease in the prison population. In fact, as of 1 August, the overcrowding rate at national level was of 0.2% and, if excluded the individuals who are serving a semi-detention sentence (regime which was eliminated from the CC), the occupancy rate is 98%. This means, therefore, that the system is no longer overcrowded.

205. Moreover, although some prisons continue to register overcrowding rates, a continuous and sustainable decline has been registered. On 1 August 2018: of the 21 high complexity prisons, only 7 were overcrowded; in the 28 medium-complexity prisons — designated by CPT as "smaller regional prisons" —, none of them was operating at 200% and only 8 registered a overcrowding higher than 140%. This reduction of the overcrowding rates in all prison facilities corresponds to a trend sustained over two years — a tendency which all indicates, considering that Law 94/2017 only entered in force at the end of 2017, will grow in the following months.

206. In addition to the above, the Government approved, in 2017, a Report on the Penitentiary and Juvenile System, in which it defines a Strategic Vision for the System on the Enforcement of Sentences and Criminal Procedures and Educational Tutorial Measures, for the next 10 years, as well as an Account on the Needs of Human and Material Resources.

207. A Working Group for improving prisoners' access to the NHS has been created in 2017 and has already developed the following actions:

- Preparation of the work leading to the publication of the referral network for the provision of hospital healthcare in the NHS regarding HIV and viral hepatitis for the prison population (Joint Order 283/2018 of 29 December 2017).

208. With regard to the prevention and treatment of infections with HIV and hepatitis in the prison population, under the project "Eliminating Hepatitis C in Prisons by 2020", protocols were signed between the country's 45 Prisons and the respective 26 Hospitals/Health Local Units/Hospitals of reference. This is carried out in accordance with Joint Order of the Deputy State Secretary for Justice and the Deputy State Secretary for Health 283/2018, which organized the network for the provision of healthcare services to the prison population, in the context of treating these diseases, by referring cases to the health units of NHS.

209. In fact, combating infections with HIV and viral hepatitis is a public health issue, considered a priority at global level, in which the detection and the treatment are

particularly important. These infections are more predominant in the prison population. As the security procedures which must be conducted every time an inmate goes outside of the prison facilities often cause constraints to clinical observation and, inversely, if clinical observation takes place inside the prison, these procedures may be dispensed, the abovementioned initiatives aim at streamlining the use of time and of human and material resources, with direct human and economic benefits.

- Articulation with a representative of the National Coordination for Primary Health Care regarding finding flexible solutions to meet the needs of the prison population in what concerns primary healthcare;
- Involvement of the National Programme for Mental Health, with a view to developing a strategy to improve access to mental healthcare for the prison population, the first priority being given to young people in seclusion in six educational centers. At this level, a meeting was also held with Hospitals whose child psychiatry services support this particular prison population;
- Raising awareness, together with the Coordination of the National Health Plan, about the need for the topic "health in prisons" to clearly and consistently enter as a priority into the agenda of the NHP;
- Preparation of a proposal, coordinated by the Directorate General of Health in articulation with the DGRSP and the Order of Dentists to improve access of the inmates to oral health;
- Involvement of the Shared Services of the Ministry of Health and DGRSP with the aim of ensuring remote access, in prisons, to the NHS information systems.

210. In addition, it is worth mentioning the signing, in January 2017, of a protocol between DGRSP and the São João Hospital Centre for Gastroenterology/Hepatology medical examinations to inmates with Hepatitis C in the Oporto Prison. In March 2017, this protocol was extended to the Prison of Santa Cruz do Bispo (female detainees). Since then, the medical specialists of the hospital centre of São João do Porto began to visit those prison facilities in order to give specialized consultations to the inmates.

211. In conclusion, the conditions to provide access to HIV and viral hepatitis medical consultations in prisons to all the inmates have been established.

## Article 8

**The Committee is concerned that the State party continues to be a destination, transit and source country for women, men and children subjected to trafficking for sexual exploitation and forced labour. It is also concerned that article 160 of the Penal Code employs an overly broad definition of trafficking that includes lesser crimes, complicating the assessment of the extent of prosecution, conviction and sentencing of trafficking offenders**

212. Article 160 (trafficking in persons) of the CC was amended by Law 60/2013, of 23 August. The definition of the relevant criminal conduct now also includes the recruitment of a person. Further to this, it has also been clarified that it is considered trafficking the committing of the relevant conducts for the purpose of any form of exploitation, including sexual exploitation, labour exploitation, begging, slavery or practices similar to slavery, removal of organs or the exploitation of other criminal activities. If the person trafficked is a minor, the purpose may also include his/her adoption. Moreover, the article now foresees the following aggravating circumstances: the person's life has been endangered; the crime was committed with particular violence or has caused particularly severe damages to that person; the crime was committed by a public officer in the exercise of his/her functions; the crime was committed in the context of a criminal group; the victim committed suicide as a consequence of the crime. It is also clarified that the victim's consent is irrelevant for the effect of determining the unlawfulness of the conduct.

213. Portuguese law provides, therefore, for a complete and comprehensive legal framework on this matter. The definition of the crime complies with international instruments and does not constitute any type of hindrance for the assessment of the extent

of prosecution, conviction and sentencing of trafficking offenders. THB is considered a priority in criminal investigation and prevention. General directives and instructions for public prosecutors establish, inter alia, that cases of illegal immigration should be specifically analysed in order to assess whether there is evidence suggesting the practice of THB. In order to detect and report crimes of trafficking in persons, public prosecution coordinates action with welfare institutions and NGO, at the local level.

214. THB, migrant smuggling and/or the fight against transnational organised crime continue to be areas in focus in cooperation protocols recently signed by PGR with foreign counterparts. In September 2018, a new protocol was signed on an integrated system of procedural information to enable prosecutors and other legal actors to access all evidence in criminal proceedings in a simple and speedy manner, regardless of complexity. This is expected to facilitate the prosecution of highly complex crimes, such as trafficking.

215. Portugal has, by several means, been committed to combating THB, one of which is the creation of the national network for the support to and protection of victims of THB.

216. GNR, PSP and SEF integrate the technical commission that assist the CIG in coordinating the implementation of the national plans for the prevention to and combat of THB.

217. In this context, the most visible actions carried out by the GNR are: own initiative surveillance operations; participation in joint operations and the respective signalling of the victims of THB in GUR, a dedicated platform that will be replaced by another one, titled MoSy.

218. Additionally, the Resolution of the Council of Ministers 80/2018, of 18 June, approved the IV Action Plan for the Prevention to and Combat of THB 2018–2021, whose strategic objectives are:

- Consolidating and reinforcing knowledge, as well as informing and raising awareness on THB;
- Ensuring victims of THB better access to their rights, as well as consolidating, reinforcing and qualifying at the intervention level; and
- Strengthening the fight against organized crime networks in order to dismantle the business model and the trafficking chain.

219. Within this scope, a set of measures has already been implemented, such as: monitoring and preparing information material on THB; producing knowledge on THB; carrying out information and awareness raising actions on this phenomenon.

220. In the same context, other measures are planned, such as the development of specialized training actions aimed at professionals who intervene in the THB area, namely magistrates, officials of justice and elements of the security forces and services, among others.

221. An overall analysis of the data shows that Portugal is primarily a destination country of foreign victims, mainly from EU Member-states, for the purpose of labor exploitation, namely in the agricultural sector, whose higher demand of labor force partially explains the "Big" occurrences.

222. Additionally to the annual statistics on THB, the OTSH has produced brief statistical bulletins that act as a repository of the statistics of Justice on the crime of trafficking in persons and related criminality. These bulletins are the result of an ongoing cooperation action launched in 2016, involving OTSH and the Directorate-General for Justice Policy/Ministry of Justice, the latter ones acting as data sources.

223. The first bulletin covered the period 2008–2015, the second one 2008–2016 and the third bulletin will be conducted by the end of 2018, covering the time span 2008–2017.

224. The variables available in the second bulletin relate to the phases of the criminal process regarding crimes recorded by the police forces, from the investigation phase to the sentence (conviction).

225. Finally, in what regards specifically the data available concerning judicial proceedings, please consider the following notes:

- Data values below 3 are protected by statistical confidentiality and are not disclosed, pursuant to Article 6 of Law 22/2008, of 13 May that enshrines the principle of statistical confidentiality. As one of the fundamental principles of the Portuguese Statistical System, the principle of statistical confidentiality seeks to safeguard the privacy of citizens and to ensure the confidence in that system;
- Statistical data on proceedings before the courts of first instance are collected from the courts' computer system, representing the status of the proceedings registered in it.

226. In what regards the information requested, the statistical data available concerning the period ranging from 2011 to 2017 is reported hereunder:

**Crime of trafficking in persons**

| *Year* | *2011* | *2012* | *2013* | *2014* | *2015* | *2016* | *2017* |
|---|---|---|---|---|---|---|---|
| Number of victims | 7 | 5 | 12 | 86 | 23 | 36 | 36 |
| Number of suspects | 21 | 17 | 36 | 43 | 30 | 20 | 30 |
| Number of registered crimes | 25 | 22 | 28 | 48 | 53 | 51 | 40 |
| Number of proceedings | -- | 3 | 6 | 4 | 3 | 5 | N/A |
| Number of defendants accused of this crime | 10 | 14 | 28 | 31 | 6 | 19 | N/A |
| Number of convicted perpetrators | -- | 10 | 9 | 22 | -- | 10 | N/A |

* --: Information under statistical secrecy; N/A: information not yet available. Data concerning cases brought to a close in first instance courts during the year of 2017 will only become available on the 31st October 2018.

227. The methods of collecting and reporting statistical data currently used provide all the necessary information in order to ascertain the number of victims of the crime of trafficking for sexual and other exploitive purposes, such as forced labour, as well as the number of prosecutions and convictions of perpetrators.

## Articles 9 and 10

**The Committee is concerned that the average pretrial detention time is excessively long, with approximately 20 per cent of pretrial detainees spending more than one year in detention. It is also concerned that pretrial detainees have been held together with convicted criminals**

228. Under Portuguese criminal procedural law, pre-trial detention is a coercive measure of exceptional nature. The decision to apply and/or change the measure on pre-trial detention is subject to strict requirements, safeguards and time-limits, and is under the remit of the Courts.

229. According to the most recent available data, the rate of pre-trial detention was 16.6%, a value that is substantially below 23.7% — the average value in all the countries of the Council of Europe (SPACE I — 2016, pg. 76).

230. Regarding the second part of the recommendation, it can be noted that the Portuguese prison system includes prison facilities and special detention units for pre-trial detainees. Further to this, in the prisons where there are both pre-trial and convicted inmates, these are separated and placed in different wings of the facilities.

## Article 14

**The Committee notes with concern that persons do not have the right to defend themselves in person in criminal proceedings, due to obligatory representation by a lawyer, in contravention of article 14, paragraph 3 (d), of the Covenant (see communication No. 1123/2002, Correia de Matos v Portugal, Views adopted on 28 March 2006)**

231. Under Portuguese law, defendants in criminal proceedings play an active role, independent from the technical defence conducted by their lawyer. In fact, the defendant has the right, among others, to be present in all procedural acts which concern him/her directly and to be heard by the court or examining judge whenever they must issue a decision which may personally affect him/her (article 61 of the CCP). Although the defence lawyer acts in representation of the defendant and, in that regard, exercises the rights recognised by law to defendants, he/she cannot exercise the rights personally granted to the defendant. Moreover, if the defendant does not agree, he/she can render without effect any acts performed on his/her behalf by the defence lawyer — for this effect is only required that the defendant makes an explicit statement before a decision on that act is issued (article 63 of the CCP).

232. Pursuant article 98 of the CCP, the defendant may, at any point of the procedure, address the court, file observations, statements and requests, with a view to protecting his/her fundamental rights. This right applies even in situations where representation by a lawyer is compulsory. For example, in his/her first judicial examination, the defendant is entitled to personally and directly express, before the court, his position with regard to the facts he/she is accused of, as well as indicate any additional facts which may be relevant for the assessment of his/her participation, liability or guilt (article 141 of the CPP). The defence lawyer shall abstain from intervening during the examination. Also, at the court's hearing — where the defendant's presence is mandatory (article 332 of the CCP) — the defendant has the right to intervene and make a statement at any point. The defence lawyer cannot intervene in these statements, without prejudice to the defendant's right to consult the defence lawyer when replying to questions or requests for clarification concerning these statements (articles 343 and 345 of the CCP). At the closing of the hearing, the judge asks the defendant if he/she wants to address the court and make any final declaration.

233. The Portuguese law does not consecrate compulsory assistance by a defence lawyer at all stages of the proceedings. In fact, representation is only compulsory in certain specific situations and procedural acts of particular importance for the outcome of the proceedings, namely where deprivation of liberty is at stake or where the defendant is particularly vulnerable — established in article 64 (1) of the CCP. Moreover, outside of those situations, article 64 (2) also foresees the possibility of the court appointing a defence lawyer where the specific circumstances of the case show the need or the convenience for the defendant to be assisted.

234. Compulsory representation pursues an objective and very serious purpose: ensuring the defendant's right to an effective defence. Compulsory representation intends to mitigate a natural inequality of arms in the context of criminal proceedings and compensate the defendant's more vulnerable position. The criminal procedure is complex and full of legal intricacies, which demand specific legal and technical knowledge in order to guarantee an effective defence. Assistance by a lawyer has, in this connection, a function of guarantee which allows for a proper control of the legality and proportionality of the acts undertaken against the interests of the defendant and ensures that the defendant is at all times properly informed, conscious and prepared for the different moments of the procedure. In addition, the defendant, as the directly interested party in the outcome of the proceedings, is deemed not to be in a position to conduct his/her defence in an objective and dispassionate manner.

235. Compulsory representation in established situations aims, therefore, at guaranteeing the right to a fair trial and, in that regard, serves the vital public interest of ensuring the proper administration of justice.

236. This compulsory representation is tempered by other elements and safeguards ensured to the defendant. Notably, the ample rights to intervene in person in the

proceedings and the power to render without effect any acts performed on his/her behalf by the defence lawyer referred to above. Furthermore, compulsory representation does not mean that the defendant will be deprived of any choice. The defendant has the right to appoint a defence lawyer of his/her choice. Only in case he/she does not do so, a lawyer shall be appointed to him/her (advogado oficioso), which, the defendant remains, in any case, free to replace by appointing another lawyer of his/her choice.

237. In view of the above, it can be concluded that the Portuguese legal framework on this matter is proportional and that the balance between the interests at stake is well achieved.

238. Further to the above, it can be noted that after the Committee's communication No. 1123/2002, the same plaintiff, Carlos Correia de Matos, has instituted new proceedings regarding the same question before the Portuguese Courts. He lost before the internal courts and complained anew to the European Court of Human Rights (ECtHR), evoking the violation of article 6 § 1 and 3 c) of ECHR — the right to defend oneself. In this new complaint, he made express reference to the decision of the Committee.

239. The final decision on this case (application no. 56402/12) was delivered on 4 April 2018, by the Grande Chamber — composed by 17 judges — after having examined the general fairness of the procedure and analysed, in depth, both the domestic law and the jurisprudence and practice of the Portuguese courts (in particular, the Supreme Court of Justice and the Constitutional Court). It has concluded, by majority, that there was no violation of article 6 §§ 1 and 3 c) of the Convention.

240. For the ECtHR the ambit of the right to self-defence is a part of a fair trial. In conformity, the limits imposed by the legal order on this right to self-defence have to be admitted, and eventually, in certain cases, to such an extent that self-representation may, in some cases, not be allowed (§§ 119 et seq.). Compulsory defence by a lawyer, other than the interested person, may better suit the interest of the defence (§ 124). These matters fall under the margin of appreciation of the State. Having analysed the European solutions on this matter, the ECtHR concludes that there is no European consensus on the subject (§ 137).

241. In the Court's view, the danger of an imprisonment sentence and the need of a non-passionate and efficient defence justify the option for the mandatory representation by a lawyer other than the defendant, in a criminal procedure (§153). Moreover, the Court noted that the Portuguese legal framework, despite reserving technical legal defence for counsel, confers on a defendant several means by which to participate and intervene in person in the proceedings (§ 155).

242. Hence, the Court concluded: «In the light of the foregoing, the Court observes that the essential aim of the Portuguese rule of mandatory legal representation in criminal proceedings is to ensure the proper administration of justice and a fair trial respecting the right of the accused to equality of arms. Having regard to the procedural context as a whole in which the requirement of mandatory representation was applied, and bearing in mind the margin of appreciation enjoyed by the member States as regards the choice of means by which to ensure that an accused's defence is secured, the Court considers that the reasons provided for the requirement of compulsory assistance overall and in the present case were both relevant and sufficient» (§ 159).

243. In light of ECtHR's very recent decision which analysed extensively and thoroughly the purpose and proportionality of this option consecrated in the Portuguese criminal procedure, it must be concluded that the current framework complies with the international standards of a fair trial.